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THE

WORKS

OF

SIR WILLIAM JONES.

WITH

THE LIFE OF THE AUTHOR,

BY

LORD TEIGNMOUTH.

IN THIRTEEN VOLUMES.

VOLUME IX.

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THE SPEECHES

OF

I S Æ U S

IN CAUSES

CONCERNING THE LAW OF SUCCESSION TO PROPERTY

AT

A T H E N S,

WITH

A PREFATORY DISCOURSE,

NOTES CRITICAL AND HISTORICAL,

AND

A COMMENTARY.

THE

EPISTLE DEDICATORY

TO THE

EARL BATHURST.

My Lord,

If I were not fully apprized of Your Lordſhip's contempt for that ſervile and adulatory ſtyle, in which patrons of eminent rank are too frequently addreſſed, yet my own habits and ſentiments would ſufficiently ſecure You from the uneaſineſs, which panegyrick moſt ſenſibly gives to thoſe who moſt highly deſerve it; nor ſhould I indeed have been ambitious of obtaining any protection for the following work, which muſt ſucceed or fail by its own worth or demerit, and cannot be ſupported by the ſplendour of a name, if the obligations, which Your Lordſhip has conferred on me, were not of ſuch a kind, as to call aloud for the moſt open and the warmeſt acknowledgement.

On ſuch an occaſion, it might perhaps be pardonable to deviate a little from my former

principles, and to delineate Your Lordſhip's character in juſt, yet glowing, colours; eſpecially as my own certain and perſonal knowledge of it has given me the power of drawing it to the life; and, if one of two groundleſs imputations muſt neceſſarily be incurred, I ſhould prefer the ſuſpicion of being a flatterer to the charge of being ungrateful; but I muſt not forget that it is Yourſelf, whom I am addreſſing, and I could not write to You with pleaſure what I knew You would read with pain.

I check myſelf, therefore, my Lord, with reluctance, and abſtain from thoſe topicks, to which the overflowing of my zeal would naturally impel me; but I cannot let ſlip this opportunity of informing the publick, who have hitherto indulgently approved and encouraged my labours, that, although I have received many ſignal marks of friendſhip from a number of illuſtrious perſons, to whoſe favours I can never proportion my thanks, yet Your Lordſhip has been my greateſt, my only, Benefactor; that, without any ſolicitation, or even requeſt on my part, You gave me a ſubſtantial and permanent token of regard, which You rendered ſtill more valuable by Your obliging manner of giving it, and which has been literally the ſole fruit that I have gathered from an inceſſant courſe of very painful toil; that Your kind intentions extended

to a larger field; and that You had even determined to reward me in a manner the moſt agreeable both to my inclinations and to the nature of my ſtudies, if an event, which, as it procured an acceſſion to Your happineſs, could not but conduce to mine, had not prevented the full effects of Your kindneſs.

It might here become me to ſuppreſs, what I cannot however perſuade myſelf to conceal, that Your Lordſhip was pleaſed to aſſign the moſt flattering reaſons for Your intention, and to declare that You deſired my promotion both for my own ſake, and for that of the publick; the firſt of which motives I aſcribe to Your candour and the goodneſs of Your heart; the ſecond, which I am wholly unconſcious of deſerving, I can impute only to Your ſingular benignity and indulgence.

As a benefit intended is the ſame in my opinion with a benefit conferred, my obligation to Your Lordſhip is perfectly equal; and this ſentiment, I entreat You to believe, no change of ſituation can alter, no length of time can obliterate. I had a friend, my Lord, who knew my gratitude for the former inſtance of Your kindneſs; and He indeed was entitled to ſome ſhare of it, as it was He, who procured me the honour of being known to Your Lordſhip: with Your late favours, unhappily for me, and un-

happily for all who were connected with him, he did not live to be acquainted.

Your Lordſhip perceives that I ſpeak of Sir JAMES PORTER; whom You alſo called your friend, and by whom You were moſt truly eſteemed and reſpected. He was a man, whoſe ſocial virtues were ſo tranſcendent, that his life was ſpent in perpetual exertions of them, and not a day of it elapſed without ſome intention ſincerely expreſſed, or ſome act zealouſly performed, for the pleaſure or advantage of another; nor were his talents inferiour to his benevolence; for, during his embaſſy at CONSTANTINOPLE, where he gained a perfect acquaintance with the manners of the extraordinary people among whom he reſided, his addreſs and activity were ſo properly exerted, that the intereſts of our mercantile body were never better ſecured, nor the honour of our nation better ſupported. Of uſeful, as well as ornamental, knowledge, both in literature and ſcience, he had conſiderably a greater portion than is uſually poſſeſſed by men of the world; and, while he was effectually ſerving his country as a miniſter, he juſtly acquired the reputation of a ſcholar. One part of his character was no leſs amiable than uncommon: ſo totally free was he from envy, the vice of little ſouls, that he was always eager to encourage the appear-

ance of literary merit, wherever it could be found; and, if any perſon had cultivated a particular branch of learning more aſſiduouſly than himſelf, he took a real pleaſure in receiving information, and, what was ſtill more rare at his age, in renouncing ancient prejudices, and retracting opinions which he allowed to have been precipitately formed.

But it is needleſs to expatiate on his excellent qualities, which were known to Your Lordſhip, as well as to many of Your common friends; and I need only add, that his well ſpent life would have been completely happy, if it had laſted until he had ſeen You retire with dignity from the high office which You ſo long filled with honour, and had been witneſs of the ſplendid tranquillity which you now enjoy.

The nature and ſcope of the following work, which I had before imparted to Him, I took the liberty of explaining alſo to Your Lordſhip; and, if the execution of it were conformable to the deſign, I might flatter myſelf, that it would obtain your approbation: it has antiquity at leaſt to recommend it; and, whatever opinion Your Lordſhip may juſtly entertain concerning the general utility of minute philological reſearches, yet You will be convinced, that ancient literature, properly directed, may be applied to many uſeful purpoſes beyond thoſe intended at the ſchool or the college.

Among other things, You will remark with ſatisfaction, that, how much ſoever the old ſtates of Greece might have ſurpaſſed us in the productions of art and genius, yet the adminiſtration of juſtice, on which our common ſecurity depends, now flows in a purer ſtream at Weſtminſter, than formerly at ATHENS; for the Archon ſat in a tribunal, where every caſe was generally decided by a kind of political law, to which no precedents were applied, and from which no rules were deduced; whereas Your Lordſhip preſided in a court where the great boundaries of property are not only diſtinct and viſible, but irrevocably fixed, where nothing is vague or precarious, nothing left to diſcretionary interpretation, but where Your predeceſſors wiſely eſtabliſhed, and Your Lordſhip nobly maintained, a beautiful ſyſtem of liberal juriſprudence, which, while it ſecures many important rights of our countrymen, contributes to the glory of our country itſelf by attracting the admiration of all mankind.

The laws of ENGLAND are the proper ſtudy of Engliſhmen; but they always ſhine with greater luſtre, when they are compared with thoſe of other nations; and, as Your Noble Father conſtantly admired the eloquence of Demoſthenes, ſo I am perſuaded that Your Lordſhip will not be diſpleaſed with the ſpeeches of an orator, whom Demoſthenes himſelf both ad-

mired and imitated: if I ſhould not be deceived in this expectation, I ſhall gain a ſufficient reward for my trouble in tranſlating him, and ſhall feel Your Lordſhip's approbation of my paſſed, to be the ſtrongeſt incentive to future labours.

I am, my Lord,

with unfeigned reſpect,

Your Lordſhip's

moſt obliged and

moſt grateful ſervant,

WILLIAM JONES.

THE

PREFATORY DISCOURSE.

THERE is no branch of learning, from which a ſtudent of the law may receive a more rational pleaſure, or which ſeems more likely to prevent his being diſguſted with the dry elements of a very complicated ſcience, than the hiſtory of the rules and ordinances by which nations, eminent for wiſdom and illuſtrious in arts, have regulated their civil polity: nor is this the only fruit that he may expect to reap from a general knowledge of foreign laws both ancient and modern; for, whilſt he indulges the liberal curioſity of a ſcholar in examining the cuſtoms and inſtitutions of men, whoſe works have yielded him the higheſt delight, and whoſe actions have raiſed his admiration, he will feel the ſatisfaction of a patriot in obſerving the preference due in moſt inſtances to the laws of his own country above thoſe of all other ſtates; or, if his juſt proſpects in life give him hopes of becoming a legiſlator, he may collect many uſeful hints,

for the improvement even of that fabrick which his anceſtors have erected with infinite exertions of virtue and genius, but which, like all human ſyſtems, will ever advance nearer to perfection and ever fall ſhort of it. In the courſe of his enquiries he will conſtantly obſerve a ſtriking uniformity among all nations, whatever ſeas or mountains may ſeparate them, or how many ages ſoever may have elapſed between the periods of their exiſtence, in thoſe great and fundamental principles, which, being clearly deduced from natural reaſon, are equally diffuſed over all mankind, and are not ſubject to alteration by any change of place or time; nor will he fail to remark as ſtriking a diverſity in thoſe laws, which, proceeding merely from poſitive inſtitution, are conſequently as various as the wills and fancies of thoſe who enact them: ſuch, among a thouſand, are the rules by which the poſſeſſions of a perſon deceaſed, whether ſolid and permanent, or incorporeal and fluctuating, are tranſmitted to his heirs or ſucceſſors, and which could never have been ſo capriciouſly diverſified, if they had been founded on pure reaſon, inſtead of being left to the diſcretion of every ſociety, for whoſe convenience they are calculated.

Sir MATTHEW HALE, to whoſe learning and diligence the preſent age is no leſs indebted

than his contemporaries were to his wiſdom and virtue, ſeems to have approved the ſtudy which I recommend; and, in his Hiſtory of the Common Law, has given a ſummary of the rules which prevailed among the ancient Hebrews, Greeks, and Romans, concerning the hereditary tranſmiſſion of property; but, as he profeſſed to touch very ſhortly on that ſubject, and was contented with tranſcribing the verſion of Petit, without having recourſe to the authors by whom the originals are preſerved and explained, his account of the Attick laws is remarkably ſuperficial and erroneous. He complains, that the text is very obſcure: it is indeed, as he cites it, not only dark, but corrupt; and the ſenſe, which he collects from it, is by no means perſpicuous. A deſire of removing this obſcurity, and of ſupplying a defect, however unimportant, in the work of ſo great a man, firſt induced me to renew my acquaintance, which had been for many years interrupted, with the Athenian orators, from whoſe private ſpeeches I had reaſon to expect the cleareſt light on the ſubject of inheritances; and I preſently recollected one of them, whoſe remains I had ſeen when I was a boy, but had been deterred, like many others, from reading them, by the difficulty of the forenſick terms, which occurred in almoſt every page.

This was ISÆUS, a lawyer of the firſt claſs at Athens, and an advocate, as the ancient criticks agree, of a ſtrong original genius; but, as his works muſt have been dry, if not unintelligible, to the herd of grammarians and philologers, by whom the old monuments of Grecian learning were ſaved from deſtruction, they ſeem to have been greatly neglected; for, out of at leaſt fifty of his genuine ſpeeches, which were extant in the ninth century, ten only remain; and theſe, as they all relate to the Athenian laws of hereditary and teſtamentary ſucceſſion, and give abundant ſatisfaction upon that head, I here preſent to the ſtudent of our Engliſh laws in his native language, not doubting but that they will yield him the ſame entertainment which they have afforded me: ſince, however, he will naturally expect ſome account of an author, with whom ſo few are acquainted, I will endeavour, before I reſume the ſubject of the Attick laws, to ſatisfy his expectations; having firſt apprized him, that this ancient orator muſt be carefully diſtinguiſhed from another of the ſame name, who ſeems to have flouriſhed at Rome in the reign of Trajan or Domitian; for he is highly extolled in a ſet epiſtle by the younger Pliny, and incidentally by Juvenal, as a wonderfully rapid ſpeaker, and a ſketch of his life is drawn by Philoſtratus, who calls him an

Aſſyrian, and adds, that in his youth he was extremely addicted to the pleaſures of love and wine, and was remarked for the foppery of his dreſs, but that he afterwards changed his courſe of life, and became, as it were, a new man; it it is evident, that the declaimer, of whom they ſpeak, had nothing in common with my author but the volubility of his language, and his name, which was probably aſſumed, as that of Iſocrates alſo was taken by one of the later ſophiſts who wrote the inſtructions to Demonicus.

ISÆUS, the maſter of Demoſthenes, and the true fountain of that eloquence which afterwards flowed with ſo impetuous a ſtream, is by ſome ſuppoſed to have been a Chalcidian, and by others, with greater appearance of probability, an Athenian: but whatever country may claim the honour of being his birth-place, it is certain that he was educated at Athens, where he became famous as a pleader of cauſes after the cloſe of the Peloponneſian war. The time of his birth may be nearly aſcertained by reaſoning from the known or ſuppoſed dates of his ſpeeches; for that on the eſtate of Dicæogenes appears to have been delivered in the fourth year of the ninety-ſeventh Olympiad, or two thouſand one hundred and ſixty-ſix years ago: now it is very probable that he was then at leaſt in his twenty-ſeventh year; for it has been

remarked, that both Demoſthenes and Cicero began to diſtinguiſh themſelves at that age; and Dionyſius, on a ſimilar occaſion, ſuppoſes that Dinarchus muſt firſt have ſpoken in publick at the age of twenty-five or twenty-ſix; whence we may fairly conclude, that Iſæus was not born after the ninetieth Olympiad; and we can hardly believe that he was much older, ſince he certainly continued to flouriſh as an advocate, and compoſed the ſpeech on the eſtate of Hagnias, after the beginning of Philip's reign. If this computation be juſt, he could not have been regularly a pupil of Iſocrates, who was born in the firſt year of the eighty-ſixth Olympiad, but, according to the beſt accounts, did not open his ſchool till the archonſhip of Lyſiſtratus, when Iſæus was at leaſt in his forty-eighth year, and in the height of his reputation: it is not, indeed, improbable, and no more, perhaps, than this was meaned by Hermippus, that he might occaſionally attend the lectures of ſo renowned a maſter; but it is certain, that he took pupils himſelf at that very time; for Demoſthenes, who was then but twelve years old, and who ſoon after deliberated on the choice of an inſtructor in the art of ſpeaking, preferred him to Iſocrates, not from any difference in the prices of their inſtructions, as it is vulgarly ſuppoſed, but from a well-grounded opinion, as Plutarch

juſtly imagines, that the ſtyle and manner of Iſæus were more forcible, and better adapted to the purpoſes of real life, than the fine poliſh, elegant turns, and ſweet numbers, which Iſocrates taught with ſo much refinement. This ardent and nervous diction, which Demoſthenes admired, he imitated alſo with ſuch ſucceſs, that in his ſeventeenth year he pronounced the ſpeeches now extant againſt his guardian Aphobus, and not long after delivered the two againſt Onetor, which ſome of the old criticks ſuppoſe to have been written, or at leaſt corrected, by his maſter: we may trace, indeed, the manly features of the inſtructor in thoſe and ſeveral other compoſitions of the illuſtrious pupil, whoſe orations on publick affairs, with which Iſæus never interfered, exhibit ſo noble a ſpecimen of true eloquence, that the palm has been by univerſal conſent given to him as the firſt orator of Greece; yet his private ſpeeches are not ſuperior in force or beauty to thoſe of his teacher, who would probably have thundered with equal energy in the aſſembly of Athenian citizens, if his temper and inclination had not induced him to prefer the certain advantages of a very uſeful profeſſion to the precarious favours which the giddy populace beſtow and reſume at their pleaſure. This, however, is no more than conjecture; for even the profound antiquary and ex-

cellent critick, DIONYSIUS, who has left us an admirable treatiſe on the ſtyle of Iſæus, profeſſes a total ignorance of his life and conduct in civil affairs; but it is obvious, that, if he had taken any part in adminiſtration, and harangued the people on important occaſions, a man of his great capacity and application muſt ſoon have been diſtinguiſhed by his contemporaries, and would have been mentioned with applauſe by the hiſtorians of his country. My opinion is likewiſe confirmed by the titles of his genuine ſpeeches preſerved by Harpocration, Pollux, and Apoſtolius, not one of which appears to have been delivered on any national queſtion; and this may be the reaſon, why moſt of the ancients, who are ſo copious in praiſing the ſmoothneſs of Iſocrates, the graces of Lyſias, the ſounding periods of Æſchines, the dignity of Lycurgus, the united force and elegance of Hyperides, ſay nothing of Iſæus; for all the others were eminent in publick life, or at leaſt compoſed orations on ſubjects of a publick nature: thus Lyſias added to his other excellent qualities an ardent zeal for liberty, and raiſed five hundred men at his own expenſe for the ſervice of the ſtate, in expelling the thirty tyrants, and reſtoring the popular government, which he ſupported alſo by his eloquence; and Iſocrates laboured ſucceſsfully to unite the Greeks in a common cauſe againſt

their old enemy the king of Perſia: the political conduct of Æſchines, Lycurgus, Hyperides, is generally known; and, although Dinarchus would not perhaps have attained much celebrity by the ſtrength of his own genius, yet he has acquired a rank among the ten orators of Athens by his aſſiduous imitation of the great man, whom he could not but admire, even when he impeached him: as to Andocides, his offences and misfortunes would have preſerved his name, if his harangue on a peace with the Lacedæmonians had been loſt; and, if Antipho had left no ſpeeches in criminal caſes, yet the place, which Thucydides, who is thought to have been his pupil in rhetorick, has given him in the hiſtory of the Peloponneſian war, would have rendered him ſufficiently illuſtrious; ſo that, of all the ten, Iſæus alone appears to have confined his talents to the narrow limits of the bar and the compoſition of forenſick arguments; which, however intereſting to lawyers, cannot be ſuppoſed to attract the notice of ſcholars in general ſo much as the pompous and ſolemn orations on treaties and embaſſies, or the various events of an obſtinate war. After all, one cannot help wondering, that, although Dionyſius lived in the very age of Cicero, and was copied almoſt too cloſely by Quintilian, yet the name of Iſæus is not particularly diſtinguiſhed in the

rhetorical pieces of the two Romans: for this omiſſion I can no otherwiſe account than by aſcribing it to inadvertence or to accident; and by obſerving, that the fame of the Philippicks was ſo ſplendid, as not only to eclipſe the reputation of a mere advocate, but even to diminiſh the attention due to the other productions of Demoſthenes himſelf, whoſe private ſpeeches have been almoſt as much neglected as thoſe of his maſter.

This is all that I have been able to collect concerning the life of ISÆUS, and I now proceed to diſcourſe more at large, but without prolixity, on his profeſſional character and the ſtyle of his oratory, not meaning to anticipate the judgement of the publick on the following ſpeeches, but intending to ſhow in what eſtimation he was holden by the Grecian criticks, and principally by the Halicarnaſſian, the moſt learned of them all; from whom, however, I ſhall more than once take leave to diſſent.

Firſt, it is hard to conceive, why Dionyſius, in the very beginning of his treatiſe, the ſole object of which was to diſplay the peculiar excellence of Iſæus and the originality of his genius, ſhould aſſert, that he was chiefly illuſtrious for having given inſtructions to Demoſthenes: this is not only contradictory, but the fact itſelf is ſo far from being true, that, if his pupil had

never been born, his reputation would probably have been greater, and he would have been reckoned the firſt orator of his age, or at leaſt the next to Hyperides; for the judicious Hermogenes, whoſe rhetorical tracts are fortunately preſerved, places him far above Lyſias, and below none but Demoſthenes, in that mode of ſpeaking which he calls *popular*, and which alone ſeems to be calculated for real ſtruggles in active life, where genuine eloquence has the fulleſt room to expand herſelf in bright and natural colours. It is ſurpriſing too, that Iſæus ſhould all along be repreſented as the imitator of Lyſias by the very author who expreſsly calls him, in his account of Dinarchus, *the inventor of his own original ſtyle:* he could not, indeed, but admire ſo fine a compoſer, who was about forty years older than himſelf, and had long enjoyed a very flouriſhing reputation: he muſt have ſtudied the compoſitions of Lyſias, and poſſibly began with imitating them; but finding them too ſoft and delicate for his forenſick combats, which required ſtronger nerves and harſher features, he changed his courſe, and, taking nature alone for his guide, diſcovered and purſued a new ſpecies of eloquence, which Demoſthenes carried to ſuch perfection, that no mortal will ever ſurpaſs, nor perhaps equal, him, until the ſame habits of induſtry and ſolidity of

judgement ſhall be found united in one perſon with the ſame fire of imagination and energy of language. One thing we muſt neceſſarily take to be true on the credit of Dionyſius; that many ſpeeches of Iſæus were hardly diſtinguiſhable from thoſe of Lyſias; but they might have been his earlieſt productions, or the ſubjects of them might have required a ſofter and more ſimple ſtrain.

The true compariſon between Lyſias and Iſæus appears to be this: purity, accuracy, propriety, conciſeneſs, perſpicuity (in the perfect mixture or rather union of which Hermogenes makes the popular ſtyle conſiſt), were common to both of them in an equal degree, and both poſſeſſed that roundneſs of expreſſion, to which nothing could be added, and from which nothing could be removed without deſtroying its juſtneſs and ſymmetry; but the orations of Lyſias had all that ſweet ſimplicity, that exquiſite grace, that clearneſs, and, as it were, tranſparency, which characterized the genuine Attick diction, and which may be more eaſily conceived than defined, admired than imitated; for it is analogous to gracefulneſs in motion, to melody in a ſeries of ſounds, and to beauty in the moſt beautiful of all viſible objects, the human form: the lineaments of Iſæus were more dignified and manly, and his graces rather thoſe

of Mars than of Adonis; for Dionyſius obſerves, that his figures were ſtronger and more various, his compoſition more forcible and impetuous, and that he ſurpaſſed Lyſias in ardour and vehemence, as much as Lyſias excelled him in ſimple and natural charms. In reſpect to the form and order of their ſpeeches, there appears to have been infinite art in both thoſe orators; but the Critick repreſents the art of Lyſias as more ſubtile and recondite, that of Iſæus as more eaſily diſcoverable: according to him there was hardly a ſpeech of my author, which had not the appearance of being premeditated and moulded into a faſhion the beſt adapted to the purpoſe of winning the minds of the jurymen, and of ſeducing their reaſon, if he could not convince it; but this alſo we muſt take in great meaſure upon truſt, for ſcarce any traces of this open and apparent art, with which both Iſæus and his pupil were reproached, are viſible to us in their compoſitions, which breathe the ſpirit of truth and juſtice, and ſeem to have been dictated by nothing more than a natural animation. We may argue, however, as long as we pleaſe: it is certain, that both Iſæus and Demoſthenes had the reputation of being extremely ſubtile advocates, a reputation by no means favourable at the bar, as it always diminiſhes and frequently deſtroys the confidence of the jury, who,

through a fear of being deluded, are apt to ſuſpect a ſnare in every argument of ſuch a ſpeaker: it is no leſs certain, that, in this reſpect, the ancients allowed the ſuperiority of Lyſias over all pleaders of cauſes who ever exiſted; for no artful arrangement appeared in his ſpeeches, no formal diviſions, no technical mode of reaſoning; but he opened his caſe with a plainneſs that captivated his audience, whilſt it enlightened them; ſo that, if Truth herſelf had aſſumed a human voice and form, ſhe could have uſed no other language. Demoſthenes and Iſæus, without having any thing forced or unnatural in their productions, took more pains than Lyſias in preparing the minds of the judges; in relating the facts which gave birth to the litigation; in dividing the parts of their addreſs to the court; in marſhalling their evidence; in diſpoſing and enforcing their obſervations; in digreſſing without deviation; in returning to the ſubject without abruptneſs; in amplifying; in aggravating; in extenuating; and, as Dionyſius ſays particularly of Iſæus, in attacking their adverſaries, laying cloſe ſiege to the underſtandings, and ſtorming the paſſions, of the jury; not omitting any thing that might tend to ſecure the fruit of all forenſick labours, a verdict or judgement for their clients: for this purpoſe, if the cauſe was weak, no inſinuation, no addreſs,

no contrivance was neglected by Iſæus in order to ſupport it; but, when he happened to have juſtice on his ſide, his method ſeems to have been admirable. His manner of opening was various, according to the great variety of cauſes in which he was employed; ſometimes he told his ſtory in a natural order, with conciſeneſs and ſimplicity, without preparation, without ornament, without any mixture of argumentation; ſometimes he divided a long narration into ſeveral heads, proving each of them, as he went along; a method, of which he ſeems to have been fond, and which could not but conduce to the perſpicuity of his ſpeeches: in all caſes he made frequent uſe of that oratorial ſyllogiſm, which logicians call *epichirema*, where the premiſes are reſpectively proved by argument or evidence before the ſpeaker draws his concluſion; while the *enthymema*, in which one propoſition is ſuppreſſed, appears to have been more agreeable to the manner of Lyſias; and Dionyſius, indeed, mentions this as a ſtrong mark of diſcrimination between the two advocates. His other modes of arguing, his anticipations, recapitulations, digreſſions, inverſions, variations, tranſitions, were all happily and ſeaſonably applied in conformity to the diſpoſition of his judges, and the nature of each particular caſe; and here I cannot forbear adding the ſketch of a ſpeech, now unfor-

tunately loſt, againſt ARISTOGITON and ARCHIPPUS, which the illuſtrious critick, whom I have ſo frequently cited, has given us as a ſpecimen of my author's method.

It was a cauſe, in which the brother of a perſon deceaſed, claiming a right to the ſucceſſion, called upon a ſtranger for a diſcovery and ſurrender of a perſonal eſtate remaining in his hands: the defendant pleaded to the bill, that the defunct had bequeathed his perſonalty to him; and hence aroſe two queſtions; firſt, an iſſue of fact, Whether any ſuch bequeſt had been made or not; and, ſecondly, an iſſue of law, Who was entitled to the poſſeſſion of the goods in diſpute pending a ſuit concerning the exiſtence or validity of the will. Iſæus, therefore, began with explaining the general doctrine on that ſubject, and demonſtrating in particular, that *a deviſee cannot legally poſſeſs the property deviſed, until his right be judicially eſtabliſhed*; a point of Athenian law, which the reader will find illuſtrated in one or two of the following ſpeeches: thence he paſſed to an inveſtigation of the fact, and contended, that no will at all had been made by his brother: and this he proved, not by a ſimple and continued relation of events, but, his narration being neceſſarily long, he diſtributed it into ſections, calling witneſſes, as he proceeded, to each head, producing

his written evidence, as occaſion required, and corroborating the whole with a number of arguments drawn from all the circumſtances of the cauſe, which he ſupported.

Various other examples are cited by Dionyſius from the works of both orators in illuſtration of his criticiſm; and they are all ſo appoſite, that I ſhould be glad to entertain the Engliſh reader with them, if it were not almoſt impoſſible to convey in our language an adequate notion of the nice diſtinction between the different originals: it is very poſſible, I hope, to give in a tranſlation ſome general idea of an author's peculiar manner, and the caſt of his compoſition; but it would be no eaſy talk to find words and ſentences exactly correſpondent with the Greek, and to pronounce that, if Lyſias and Iſæus had been Engliſhmen, the firſt would have ſelected ſuch a word or ſuch a phraſe on account of its ſimplicity, which the other would have rejected in favour of one more energetick and ſonorous. The diverſity between them, in regard to the diſpoſition of their arguments, might, indeed, be made plainly diſcernable in any other tongue; but, after full conſideration, I reſolved to ſubjoin the fragments of Iſæus, without tranſlating any of Lyſias, eſpecially as moſt of his orations may now be read in Engliſh, with no leſs pleaſure than advantage, by

any one who ſhall think proper to compare him with my author. Had more of their productions been preſerved, we ſhould have ſeen more clearly the propriety of the compariſon with which the critick of Halicarnaſſus illuſtrates his obſervations; for he declares his opinion, that the ſpeeches of Lyſias reſemble ancient pieces of painting in the ſimplicity of their colours and the graceful correctneſs of their outlines, while thoſe of Iſæus are like the more modern pictures, which are leſs accurately drawn, but finiſhed with bolder ſtrokes of the pencil, decorated with a greater variety of tints, and enlivened with a ſtronger oppoſition of light and ſhade.

On the whole, the orator Pytheas might have reproached Demoſthenes with ſome reaſon for having transferred into his practice and manner of ſpeaking the artifices and ſubtilty of his maſter; but Dionyſius himſelf may go too far, in ſaying that the conſummate art of Iſæus and his pupil made them liable to ſuſpicion, even when truth and equity were on their ſide, while the plainneſs of Iſocrates and Lyſias gave even a bad cauſe the colour of juſtice and reaſon; as if a glowing and rapid ſtyle, or a juſt arrangement of topicks, could have been ſuſpected of impoſture more than the ſly inſinuating air of candour and openneſs, which the moſt artful men often aſſume.

I cannot leave this ſubject, without combating in few words an opinion of Cicero, intimated in all his rhetorical pieces, and expreſſed very roundly in that little fragment, which ſeems to have been part of a preface to his tranſlation of Demoſthenes and Æſchines for and againſt Cteſipho, but the authenticity of which was doubted by Manutius. It begins with a poſitive aſſertion, that "there are no diſtinct ſpecies of oratory, as there are of poetry; that, although a "tragick, and epick, and a lyrick, poet may be "all equally perfect in their ſeveral ways, yet "that no man can juſtly be called a ſpeaker, "unleſs he unite in the higheſt degree the powers of inſtructing, delighting, and moving, "every audience on every ſubject." A character ſo various, and a genius ſo comprehenſive, muſt neceſſarily be the object, if ever it ſhould exiſt, of general admiration; but why it is not ſufficient to call ſuch a man the greateſt, without inſiſting that he is the only, orator, or why an advocate, who never applied his talents to the ſenatorial ſpecies of eloquence, may not attain perfection in the forenſick, and ſo converſely, I am at a loſs to comprehend. *Menander*, you ſay, *would not have deſired to be like Homer*; certainly not in his comedies; *but every ſpeaker wiſhes to reſemble Demoſthenes*; as certainly not, when he is addreſſing the jury on

the obſtruction of ancient lights or the diverſion of a watercourſe. The kinds of ſpeaking are different; and, though one of them be more exalted than another, yet orators, as well as poets, may in thoſe different kinds ſeverally reach the ſummit; and this analogy may be extended to all the fine arts: Myro was not a leſs perfect ſculptor in marble, becauſe he was unable probably to finiſh gems with the delicacy of Trypho; nor, to ſpeak of modern artiſts, will Rafaelle ever be degraded from his high rank among painters, becauſe he might not have been able to draw Cupids and Nymphs with the minute elegance of Albani; in the ſame manner as Demoſthenes will always be allowed to have hurled the thunder of Grecian eloquence, although he could not perhaps (whatever Tully may ſuggeſt to the contrary) have ſpoken with the ſimple graces of Lyſias. Philoſophers may refine, and logicians may diſtinguiſh, as learnedly and ſubtilly as they pleaſe; it will, after all, be true, that the eloquence of a ſenator is of a ſpecies wholly different from the eloquence of an advocate; that the two kinds ought never to be confounded; and that a complete ſpeaker before a jury or a ſingle judge may ſtrain his throat without effect in a popular aſſembly. If Cicero, indeed, meaned no more than that the title of orator ſhould be given only to one, who,

like himſelf, excels all men in every way, the argument is reduced to a mere diſpute about words, which every writer may apply as he thinks proper, provided he apprize his reader of the new ſenſe in which he means to uſe them; but, ſurely, he might have aſſerted, with equal propriety, that he alone, who ſurpaſſes the reſt of mankind in every ſort of poetry, deſerves the appellation of a poet; for nothing can be more exact than the analogy between the two arts, and their near alliance is often acknowledged by the great man himſelf, with whoſe opinions I am taking ſo much liberty: had he ſaid that by the word *orator* he meaned a ſpeaker, who had cultivated every branch of his art, the Romans might have thought this an innovation in their language, but they would, perhaps, have adopted the definition on his authority. We are not however contending about the proper application of terms, or the abſtract idea of univerſal genius: the ſingle queſtion is, Whether there are not diſtinct ſpecies of oratory as there are of poetry, and whether a man may not be perfect in any one or more of them, without having directed his talents to the cultivation of the reſt; for the deciſion of which point, I appeal to ſuch of my readers as have heard ten ſpeeches at our Engliſh bar, and as many in either houſe of parliament. They will forgive me for having

applied, and for ſtill applying, the word orator to ISÆUS, although his eloquence was wholly forenſick; and I confer this title on him with more confidence, becauſe there is reaſon to believe, that he ſometimes delivered his own ſpeeches, without confining himſelf entirely to the difficult, but leſs noble, taſk of compoſing for others; for I muſt confeſs, that I can form no idea of an orator without elocution and action, nor can the praiſe of eloquence be juſtly, or even without a ſoleciſm, be beſtowed on mere invention and compoſition, which conſtitute indeed the body of oratory, but ſpeech and geſture alone can give it a ſoul. Whether the remaining works of my author will juſtify the criticiſm of Dionyſius and Hermogenes, or whether my interpretation of them may not have weakened their original force, muſt be left to the impartial judgement of the reader; but this advantage will naturally reſult from my preſent publication: if the following ſpeeches ſhould be thought manly, nervous, acute, pertinent, and better in moſt reſpects than the generality of addreſſes to an Engliſh jury on ſimilar ſubjects, we ſhall have a kind of model, by which the ſtudent may form himſelf, allowing for the difference of Athenian laws and manners; and, if they ſhould appear inferior in all thoſe qualities to the ſpeeches uſually delivered by our leading advo-

cates, we ſhall have reaſon to congratulate our age and country, and to triumph in the ſuperiority of our talents; for our leaders often make the ableſt and moſt ſpirited replies without a poſſibility of premeditation; and wonderful, indeed, muſt be the parts and eloquence of thoſe, whoſe unprepared effuſions equal or ſurpaſs the ſtudied compoſitions of the ancient orators.

In whatever eſtimation ISÆUS may be holden by his tranſlator's contemporaries, it is certain that he ſtood very high in the opinion of his own: but the fate of his works has not correſponded with the fame, which they procured him, while he lived: ſince, for the reaſons before aſſigned, they were ſo much neglected in the darker ages, that no part of his fifty ſpeeches, which were extant in the time of Photius, is known to exiſt at preſent, except what this volume contains, with about a hundred detached words and phraſes explained by Harpocration and one or two other grammarians: even theſe ten ſpeeches would in all probability have periſhed with the reſt, if it had not pleaſed ſome man of letters to copy them; and it is much to be wiſhed that he had added at leaſt two more, one on the eſtate of Archipolis, and another on that of Menecles; for we ſhould then have had a complete collection of the orations called κληρι-

κοὶ, or relating to the ſubject of legal and teſtamentary ſucceſſion. This copy, however, was repoſited in the library belonging to a monaſtery in Mount Athos, whence it was brought to Florence at the beginning of the ſixteenth century by Laſcaris, who had been ſent to Greece by Lorenzo di Medici to purchaſe manuſcripts; and it is preſerved at this moment in the Medicean collection. Five years after the book was in Italy, it was printed at Venice, with ſome other orations, by the indefatigable ALDUS MANUTIUS, who gives the preceding account of it in his preface; and it may be preſumed, that his edition, upon which the curious ſet a high value, is a very exact impreſſion of the manuſcript with all its inaccuracies. Towards the cloſe of the ſame century, the celebrated HENRI ETIENNE, whom we have naturalized and call Henry Stephens, reprinted the Aldine edition of the Greek orators with ſome judicious notes in the margin; but he ſeems to have taken more pains with Æſchines and Lyſias than with the others, and Iſæus appeared under his inſpection with ſcarce any greater advantage than that of a very handſome dreſs: this editor, in his epiſtle dedicatory, promiſed to collect all the Attick laws with a compariſon between them and the inſtitutions of modern nations; a work, which would have thrown an advantageous light on

my author, but which unhappily he never completed. Many eminent ſcholars, who afterwards poſſeſſed this elegant edition, among whom were Scaliger and Saumaiſe, ſcribbled a few haſty conjectures in the margin of Iſæus; but the world at large knew little of his ten ſpeeches for above forty years, until one ALPHONSUS MINIATUS, as he calls himſelf, undertook, in the ſeventy-third year of his age, to tranſlate them into Latin: his attempt was highly laudable; but it is clear, that he underſtood neither the language from which, nor that into which, he tranſlated; for every page of his verſion abounds with blunders ſo ridiculous, that, if any man can ſtoop to divert himſelf at the expence of another, he cannot find better ſport than by reading Miniatus; and Schott of Antwerp, who profeſſed a friendſhip for him, but muſt have known his ignorance, did wrong in ſuffering the old man to expoſe himſelf by ſuch a publication. The accurate Perizonius, whoſe diſſertations contain many excellent remarks on my author, complained ſome time after, that *the very uſeful ſpeeches of Iſæus, which his illiterate interpreter, Miniatus, had moſt unſkilfully rendered, lay ſcandalouſly neglected*; and Fabricius expreſſed his wiſh, that a very good ſcholar, whom he names, would preſent the world with a new tranſlation of them: but even theſe publick remonſtrances

could not attract the attention of learned men to a work, which they thought intereſting to lawyers only; and Taylor, who publiſhed his Elements of Civil Law little more than twenty years ago, ſpeaks of my author as a writer then hardly known: "When I quoted *Iſæus*, ſays "he, I would ſuggeſt to my readers, that I men- "tioned an author upon many accounts very "valuable, but upon none ſo much as of the "great light, that he is capable of throwing "upon the queſtion before us, *de jure hæredita-* "*rio*; a ſubject, in which the orations, that are "left of him, moſt remarkably abound." It is probable, that ſo ſtrong a recommendation from ſo judicious a writer produced ſome effect among the ſcholars of his time; but Iſæus was ſtill an obſcure name, till REISKE of Leipzick, about five years ago, publiſhed the originals of the following ſpeeches, together with the treatiſe of Dionyſius, in his elaborate edition of the Greek orators. As I have conſiderable obligations to this learned and laborious man, whom I mention here merely as the editor of Iſæus, without entering upon the other parts of his work, I think it better to make this general acknowledgement of them, than to moleſt the reader with a ſuperfluity of notes, eſpecially as my opinion of his particular corrections may be always aſcertained by my tranſlation of the text;

and it muſt be owned, that although many of his annotations are haſty and even puerile, yet moſt of them are candid, plauſible, ingenious; and ſome of his conjectural emendations are wonderfully happy: his *interpretation*, indeed, is a prolix paraphraſe in very harſh Latin; but, as it ſhows his apprehenſion of the author's meaning, and, as that apprehenſion ſeems to be generally right, let us be ſatisfied with the utility of a performance, in which elegance was not to be expected. It is with pleaſure that I take this opportunity of giving a due ſhare of praiſe to ſo well-intentioned and induſtrious a man, who, although he was not without the pride and petulance which too often accompany erudition, ſufficiently atoned for thoſe faults by the integrity of his heart and the intenſeneſs of his application to the ſtudy of ancient literature, which his labours have conſiderably improved and promoted. To his valuable work we certainly owe the late excellent verſion of Demoſthenes and Æſchines by the Abbé AUGER, who promiſes alſo a tranſlation of my author; and, as my Engliſh Iſæus has the fortune to ſee the light before the French, I ſhall be happy if it can afford any help to ſo reſpectable a ſcholar, who, diſdaining the prejudices of an academician, and daring to expreſs his own juſt ſentiments, has the courage to recommend the learning and

language of Athens in the heart of Paris; nor ſhall I bluſh to confeſs any errors that I may have committed, and, with the aid of his interpretation, to correct my own.

As to my work, I ſhall ſay very little concerning it, but fairly ſubmit the whole to the judgement of the publick; for I never could approve the cuſtom of authors, who, in their prefatory diſcourſes, lay down rules of perfect writing, to which they inſinuate that their own productions are ſtrictly conformable. I will not, therefore, ſay with *Cicero*, if indeed he wrote the fragment beforementioned, that *I have tranſlated Iſæus not as an interpreter but as an orator*; nor with *Middleton*, who was fond of imitating Cicero, that *I have made it my firſt care, always to preſerve the ſentiment, and my next, to adhere to the words as far as I was able to expreſs them in an eaſy and natural ſtyle.* I am fully perſuaded, that there is but one golden rule for good tranſlation; which is, to read the original ſo frequently, and ſtudy it ſo carefully, as to imprint on the mind a complete idea of the author's peculiar air and diſtinguiſhing features; and then to aſſume, as it were, his perſon, voice, countenance, geſture; and to repreſent the man himſelf ſpeaking in our language inſtead of his own: but, whether I have acted the part of ISÆUS with exactneſs, whether I have juſtly

expreſſed the peculiarity of his character, whether my ſtyle conveys an adequate notion of his nerves and ſpirit, his vigour and ſharpneſs, I really cannot tell; nor, if I could, would it become me to tell my reader. One requeſt only I muſt beg leave to make: that, if any perſon ſhould conceive it an eaſy matter to tranſlate into Engliſh the ancient orators of Greece, and ſhould perſiſt in that opinion while he reads my tranſlation, he will inſtantly lay aſide my book, take up the original, and render the next ſpeech himſelf: if he ſhould find the taſk more difficult than he had imagined, he will then give me the only praiſe, which I deſire, that of having taken no ſmall pains to inform and entertain my countrymen; to whom, if opportunity alone had not been wanting, I would long ago have made many greater ſacrifices—But of myſelf enough has been ſaid; and, I hope, without impropriety.

I now reſume the ſubject, from which I have ſo long digreſſed, and return to the Attick laws of hereditary and teſtamentary tranſmiſſions: the text of which, together with a few other ordinances nearly related to them, I ſhall prefix to the ſpeeches, reſerving a fuller explanation of them for the commentary; it being my ſole object, in this introductory diſſertation, to prepare my reader for compoſitions above two thouſand

years old, and to explain ſuch alluſions as may occur in them, ſo that he may underſtand them without the perpetual interruption of notes: with this intent I ſhall now ſubjoin a ſhort ſketch of an Athenian ſuit for the recovery of property in the court of HELIÆA, the only one of the ten, which my preſent ſubject leads me to conſider. A more minute account of a lawſuit at Athens, from the original proceſs to final judgement, would have been ſuperfluous in this place, and even inconſiſtent with the ſcope of my work; but, ſhould the curioſity of any learned reader be raiſed by this ſummary, he will receive ample information from various tracts in the vaſt repoſitory of *Gronovius*, among which I principally recommend the elegant treatiſe of CAROLUS SIGONIUS, *On the Athenian Republick:* that moſt judicious antiquary has, indeed, ſo completely exhauſted the ſubject, that POTTER has done little more than tranſlate his work with ſome additional authorities and a multitude of quotations, which are ſo far from improving his book, that they render it intolerably dry and tedious. M. Auger profeſſes to have followed Potter and Petit, and has extracted from their rude materials a very perſpicuous and agreeable diſſertation on the juriſdiction and laws of Athens. I have turned them all over with as much attention as it ſeemed

worth while to give them; but my remarks are chiefly drawn from the pure ſource of the Greek orators themſelves, and from their beſt interpreter, *Harpocration*. I cannot help grieving, that the *Commentaries on Iſæus* by DIDYMUS have not ſurvived the days of Gothick barbarity; for, although they were probably nothing more than gloſſes or grammatical notes, yet they would have been of infinite uſe in illuſtrating many dark paſſages, and fixing the purity of the text. The works too of HERO the Athenian, who wrote a treatiſe *On lawſuits at Athens*, and another *On the forenſick conteſts of the old ſpeakers*, would have given me no leſs entertainment and inſtruction than aſſiſtance in compoſing this part of my preface; and the ſame may be ſaid of two loſt books by TELEPHUS, the firſt, *On the laws and cuſtoms of the Athenians*, and the ſecond, *On their courts of judicature*; but, inſtead of waſting time in fruitleſs regret, I proceed to diſcourſe concifely on the ſame ſubject by the help of ſuch imperfect light as remains.

It is almoſt needleſs to premiſe, what every perſon who has the ſlighteſt acquaintance with the conſtitution of Athens already knows, that all cauſes concerning inheritances, deviſes, legacies, portions, adoptions, marriages, divorces, alimony, widows, heireſſes, orphans, guardians,

belonged to the juriſdiction of the chief ARCHON, who gave his *name* to the year of his magiſtracy, and was thence often called *Eponymus*; a juriſdiction, which may in part be traced through the Decemviral laws to that of the Roman PRÆTOR, and from him, through the imperial and pontifical conſtitutions, to that of our CHANCELLOR. Either this great magiſtrate, whoſe tribunal was in the Odeum, or one of the ſix inferior Archons, called *Theſmothetæ*, generally ſat, crowned with myrtle, for the purpoſe of receiving complaints from perſons injured, of directing proceſs, examining the parties, allowing or diſallowing the action, and conducting the ſuit through its various ſtages; for, when a citizen thought himſelf wronged, and reſolved to ſeek redreſs in a court of juſtice, his firſt ſtep was to prefer his *plaint* and *denounce* the name of his adverſary to the ſitting magiſtrate, who *examined* the complainant, and, if he thought the action maintainable, permitted him to *ſummon* the defendant to appear at a certain day: it was allowable, where an expeditious remedy was required, to *attach* the perſon complained againſt, and carry him directly before the court, of which the reader will recollect many inſtances in the ancient comedies, where the ſcene is uſually laid at Athens; but, in moſt caſes of civil injuries, the firſt proceſs was by

citation or *ſummons*, for which purpoſe a number of apparitors or bailiffs, called *ſummoners*, were conſtantly at hand; nor can we ſuppoſe, that in a ſmall ſtate governed almoſt wholly by laws, which inflicted a ſevere puniſhment on contumacy, this monition of the Archon was often diſobeyed: contumacious perſons were declared *infamous*, a ſentence no leſs dreadful to an Athenian, than *outlawry* to an Engliſhman.

When both parties were confronted before the magiſtrate, he proceeded to a ſtrict examination of them, which was called the *interrogation*, and the parties litigant were at liberty to interrogate one another, as we learn from the ſpeech on the eſtate of *Philoctemon*; whence alſo we may collect, that their *anſwers* were ſet down in writing, and might be given in evidence againſt them at the trial, and that, if the Archon found it neceſſary, he might adjourn the examination. This was not unlike the French *recollement*, of which M. de Beaumarchais has given us a lively and curious deſcription in one of his intereſting memorials; and the ſtudent will find it an inſtructive and agreeable exerciſe to compare theſe judicial proceedings at Athens, not only with thoſe of the civilians and canoniſts, of which he will ſee an exact ſketch in Sir Jeffrey Gilbert's *Forum Romanum*, but alſo with thoſe in our own courts of law and equity, and

with the modes of bringing cauſes to a hearing in Scotland and France: to remind him at every turn of the analogy between theſe different forms of adminiſtering remedial juſtice, would be both idly oſtentatious and inconſiſtent with my principal deſign.

It was the Archon who gave the complainant the power of impleading his antagoniſt, preſcribed the proper form of the action, of which the Athenians had a great variety, and, to uſe their term, *admitted* the cauſe into court; after which preliminaries the party complaining put in, as I conceive, his *declaration*, or *bill*, in which he ſet forth pertinently and ſuccinctly the nature of the injury which he had ſuſtained; and then, I imagine, the parties proceeded to their mutual *altercations*, which the Archon moderated and directed, and which, like our ancient *pleadings*, were delivered orally before his tribunal. If the plaintiff perſevered in demanding redreſs, and the defendant inſiſted generally, that *he had committed no injury*, or *that he had a right to the property in queſtion*, ſo that the merits of the cauſe might be fairly tried in a *direct* courſe, iſſue was then joined, as by the *Sponſio* of the Romans, and each party *depoſited* a ſtated ſum as a pledge of proſecuting his claim: nor was this all; for the parties were obliged to give in *croſs-depoſitions*, in which they reſpectively ſwore,

that they relied on the juſtice of their ſeveral caſes, and would produce evidence of the truth. The Archon then enquired into the nature of that evidence, aſked the parties, if they were prepared with their witneſſes, and what was the number of them; for, if either of them was unprepared and could offer upon oath a juſt excuſe for his want of readineſs, the trial might be poſtponed. This was alſo the time for propoſing terms reciprocally in regard to the litigation, as by written *challenges* to produce their ſlaves, whoſe teſtimony was always extorted by pain or by the apprehenſion of it, and who could not be expoſed to torture without the conſent of their maſters, which was rarely given; but the party refuſing to conſent gave an advantage to his adverſary, who, inſtead of aſcribing his refuſal to humanity, conſtantly imputed it to a dread of diſcloſing the whole tranſaction; of which common topick we ſee a remarkable inſtance in the *Trapezitick* ſpeech of Iſocrates, whoſe very words are found in that of Iſæus on the eſtate of Ciron, and in the firſt of Demoſthenes againſt Aphobus: this identical paſſage in the three orators is adduced by Euſebius among other inſtances of the groſs plagiariſm with which he charges the Greeks; but it is a paſſage which, to the honour of our nation, can never be copied by a Britiſh advocate.

It was competent, however, to the defendant, to put in a *dilatory plea*, as for inſtance, to the *juriſdiction* of the magiſtrate; or to *demur*, as we call it, to the declaration, by inſiſting that the action was not maintainable, or, in the language of the Athenians, not εἰσαγώγιμος or *admiſſible*; or he might plead *in bar* any fact that precluded the plaintiff from his ſuit, as a compromiſe and releaſe, or the expiration of the limited time within which the complaint ſhould have been preferred: this was in general *five* years; but the law of limitations doth not ſeem to have been very rigorouſly obſerved, as excuſes for the non-claim were often made, and ſometimes, probably, admitted. From this law there ariſes no ſmall difficulty in the ſpeech on the eſtate of PYRRHUS, whoſe adopted ſon Endius had been in poſſeſſion above *twenty* years, yet, on his death, an attempt was made to invalidate the adoption by proteſting that Pyrrhus had a legitimate daughter: now one would have imagined, that, had ſhe been really legitimate, ſhe would have been perpetually barred by not having *entered* on the eſtate, or oppoſed the claim of Endius, within the due time from the death of her father; but the five years only ran from the day when a new title accrued, and, ſhe having paſſed the time of entering as *daughter* of Pyrrhus, her huſband might have made a claim

for her as *ſiſter* and heireſs of Endius lately deceaſed. However that might be, this cauſe affords a good ſpecimen of Athenian pleading; for, in the original ſuit, Xenocles appears to have been complainant in right of his wife Phila, and to have demanded in his bill the three talents, of which her father died poſſeſſed: to this the defendant, who was the mother of Endius, *pleaded*, that ſhe was the ſiſter of Pyrrhus, and, on the death of his adopted ſon without heirs, became entitled to his eſtate: Xenocles *replied*, in the form called διαμαρτυρία or a *proteſtation*, that ſhe had no title, becauſe *Pyrrhus had left a legitimate daughter:* this the defendant *traverſed* or denied; and, as the iſſue was found in her favour, the complainant, who had *proteſted* upon oath, muſt neceſſarily have been perjured. I choſe to give this Attick form the name of *proteſtation*, although *obteſtation* be more literal, and although the former word be reſtrained in our law to a parenthetical allegation, which is not *traverſable*; but I cannot too often requeſt the reader of *Iſæus* to place himſelf at Athens, and to drop for a time all thoughts of our own forenſick dialect. This *proteſtation* then, which anſwered ſometimes to a *demurrer*, and ſometimes to a ſpecial plea *in bar*, differed from the παραγραφὴ or *exception*; for the firſt might be entered by either of the contend-

ing parties, or even by a third perſon intervening; as, in the litigation concerning the eſtate of Dicæogenes, when Menexenus and his couſins were going to join iſſue with their adverſary, *Leochares* put in a proteſtation, *that the heirs at law were precluded from claiming the inheritance:* but the *exception*, which in general was a dilatory plea, could only be made by the defendant. Theſe oblique modes of pleading were, however, conſidered as unfair, and were therefore diſcountenanced, as tending to divert the ſtream of juſtice, and to evade a candid inveſtigation of the whole truth: thus *Thraſyllus*, in the ſixth ſpeech, makes a merit of having pleaded in a *direct* form, when it was in his power to have *proteſted* ſpecially, that he was the adopted ſon of Apollodorus; and, in the fifth, the ſame topick is urged in favour of Chæreſtratus, whoſe advocate inſiſts, that his opponent, inſtead of *proteſting*, that Philoctemon had left legitimate ſons, ſhould have denied at once the validity or exiſtence of his will. It ſeems that, in all caſes of diſputed eſtates, every deviſee, and every heir, except a lineal deſcendant, was compelled to make a claim by exhibiting a bill to the Archon: if his title was controverted, the adverſe claimant preſented a *croſs-bill*, called ἀντιγραφὴ, and it appears from the laſt mentioned cauſe, that this courſe might be pur-

ſued by a perſon who had proteſted, even after the iſſue on his proteſtation had been found againſt him; whence it follows, that a multiplicity of trials was prevented by the εὐθυδικία or general plea. We may collect alſo from a paſſage in the fourth of the following ſpeeches, as well as from Harpocration, that when a ſtranger interpoſed by proteſting, that *the eſtate was not* ἐπίδικος *or open to controverſy*, it was uſual to diſcontinue the original action, and to try the iſſue joined on the proteſtation, the event of which trial muſt have directed the judgement in the firſt cauſe: what follows that paſſage is extremely ſingular; for, when Leochares was more than half-convicted of perjury, the puniſhment of which was a perpetual deprivation of all civil rights, the plaintiff not only was permitted to decline taking the verdict, but even conſented to accept the promiſe of Leochares himſelf, that Dicæogenes ſhould ſurrender the property in diſpute.

Whenever, in the courſe of theſe pleadings, the parties came to a *fact* or a point of *law* (for both were determined by the ſame judges) aſſerted on one ſide and denied on the other, the Archon proceeded, as if the defendant had pleaded generally: and all the writings in the cauſe, the bills, claims, croſs-depoſitions, challenges, proteſtations, and exceptions, together with ſuch in-

ſtruments as had been exhibited, and, I believe, with the depoſitions of the witneſſes, were encloſed in a veſſel called ἐχῖνος, which could not be opened till it was carried into court.

Thus was a cauſe at Athens prepared for trial, and, we muſt acknowledge, in a ſimple and expeditious manner; nor was the popular form of pleading the general iſſue, and proving the ſpecial matter in court, liable to the objection of expoſing the parties to the danger of being ſurprized with an unforeſeen caſe or unexpected evidence; ſince all the circumſtances were previouſly ſifted, and the depoſitions accurately ſettled, in the preſence of the Archon, ſo that each party was fully aware of his adverſary's ſtrength, and able to inſtruct his advocate without darkneſs or perplexity: yet if we conſider the multitude of law-ſuits, with which, as Iſæus himſelf informs us, Athens abounded, it muſt appear ſtrange how ſix or ſeven magiſtrates, even with their aſſeſſors, could have time to conduct the altercation of ſo many litigants, and to perform the other important duties of their office. At Weſtminſter a ſimilar plan would be found impracticable; nor ſhall I eaſily be induced to wiſh for a change of our preſent forms, how intricate ſoever they may ſeem to thoſe who are ignorant of their utility. Our ſcience of ſpecial pleading is an excellent Logick; it is

admirably calculated for the purpoſes of analyſing a cauſe, of extracting, like the roots of an equation, the true points in diſpute, and referring them with all imaginable ſimplicity to the court or the jury: it is reducible to the ſtricteſt rules of pure dialectick, and, if it were ſcientifically taught in our publick ſeminaries of learning, would fix the attention, give a habit of reaſoning cloſely, quicken the apprehenſion, and invigorate the underſtanding, as effectually as the famed Peripatetick ſyſtem, which, how ingenious and ſubtile ſoever, is not *ſo honourable, ſo laudable, or ſo profitable*, as the ſcience, in which *Littleton* exhorts his ſons to employ *their courage and care*. It may unqueſtionably be perverted to very bad purpoſes; but ſo may the nobleſt arts, and even eloquence itſelf, which many virtuous men have for that reaſon decried: there is no fear, however, that either the *contracted fiſt*, as Zeno uſed to call it, or the *expanded palm*, can do any real miſchief, while their blows are directed and reſtrained by the ſuperintending power of a court.—But let us return to Athens.

The next act of the Archon was to caſt lots for the *judges*, on whom I chuſe in general to confer that title, becauſe they determined not the fact only, but the law and equity, of every caſe: although I have always been of opinion

with the learned antiquary Dr. PETTINGAL, that they might with propriety be called *jurymen*; and that the Athenian juries differed from ours in very few particulars. It is well known, that the Δικασαὶ were a ſtanding body of citizens, all at leaſt thirty years old and of unblemiſhed character, but without any ſtated qualification in point of fortune: before they were admitted into the order of judges, they ſwore ſolemnly, among other things, "that they would never "accept a bribe directly or indirectly for pro-"nouncing their ſentence, nor ſuffer any of "their fellows to be bribed, with their know-"ledge, by any artifice or contrivance what-"ever; that they would impartially attend to "both plaintiff and defendant, and give a juſt "verdict on the very point in iſſue;" which oath, as we may collect from *Demoſthenes*, they repeated before every trial, and the advocates ſeldom failed to remind them of it. The number of their names drawn by lot, in cauſes to be tried in the Heliæa, was uſually five hundred, as we learn from the fourth ſpeech of Iſæus; but, on very important occaſions, a thouſand, fifteen hundred, and ſometimes two thouſand, ſat to decide the ſame cauſe; ſo that they formed in reality a committee from the whole legiſlative body, and hence they are frequently preſſed by the orators to be guided by the laws which

they had themſelves enacted: it is on account of their ample powers and their mixed character, that I call their ſentence indifferently a *judgement*, a *verdict*, or a *decree*; although at our bar we appropriate each of thoſe words to a diſtinct meaning. The ſentence was determined by the plurality of ſuffrages; but the nearer the court approached to unanimity, the more brilliant was the victory; and as he, who had not a fifth part of the votes, was fined a thouſand drachmas, I conceive, that the parties were allowed to challenge ſuch of the jurors as they could affect with a reaſonable ſuſpicion of a bias to either ſide. When the judges, on the day appointed, took their ſeats in the *Heliæa*, a place in the open air, but ſurrounded with a rope and attended by officers who kept off the croud, the Archon propoſed or *introduced* the cauſe; and, if the defendant made default, judgement was given againſt him; but it was not final till two months had paſſed, within which time he might apply to the magiſtrate, and, by aſſigning on oath a ſatisfactory reaſon for his abſence, might ſet it aſide, and have another day fixed for the trial. When the parties appeared, they uſually brought with them as many powerful friends as they could aſſemble, with a view, no doubt, of influencing the jury; a ſhameful cuſtom! but which cannot eaſily be

prevented in any country, and which ſeems to have been common at Athens, as we find in ſome of the old comedies, and in the beginning of the ſpeech on the eſtate of Cleonymus: they were accompanied alſo by their advocates and witneſſes, of whom it will be neceſſary to ſpeak with as much conciſeneſs as the ſubject will admit.

The office of συνήγορος was diſtinct from that of ἐξηγητὴς; as the firſt was the *actor cauſarum*, and the ſecond the *juriſconſultus*, of the Romans; both which characters are generally united in our *counſel:* I call the firſt an *advocate*; although I have no certain knowledge that the *Athenian* title was given to men of a particular profeſſion; but am inclined to think, that any man whatever, whom friendſhip or ability recommended to either party, might, with the permiſſion of the court, plead his cauſe before the judges; nor do I believe, that this buſineſs was in general conſidered as reputable; for *Nicodemus*, who ſeems to have been a very profligate fellow, is reproached by Iſæus in the ſecond ſpeech, for acting diſhoneſtly, in hopes of the petty fees, which he gained by pleading cauſes; and, in the eighth, *Xenænetus* and his aſſociates, whom my author repreſents as a deteſtable crew, are ſaid to have had ſuch powers in ſpeaking, that they were often employed as

advocates. The ῥήτορες were of a higher claſs; many of them, illuſtrious ſtateſmen; and all, men of diſtinguiſhed abilities, who were frequently engaged in private cauſes, either at the requeſt of particular friends, or, like the Roman ſenators, who were forbidden to take money by the *Cincian* law, with a view of acquiring fame and popularity: but Antipho of Rhamnus is ſaid to have been the firſt who took fees for his forenſick labours. When the orators addreſſed the court in perſon, they were aſſiſted, as *Tully* ſays, in matters of law by ſolicitors or agents, who were called πραγματικοὶ, and whoſe profeſſion was reckoned illiberal; but, moſt commonly, the ſpeeches were compoſed by the great maſters of rhetorick, and delivered either by memory or from writing, by the clients themſelves, or ſome of their intimate friends: for the Athenians were naturally quick; their general aſſembly was the beſt ſchool of eloquence in the world; and, as they had but one language to learn, which was the fineſt ever ſpoken by mortals, the loweſt among them could not only expreſs themſelves with propriety, but were even the niceſt judges of the pure Attick diction. *Plutarch* tells us, in his treatiſe on *Garrulity*, that Lyſias wrote a ſpeech for a client, who brought it back with great marks of uneaſineſs, aſſuring the orator, that, "when he

" firſt read it, he thought it wonderfully fine; " but that, on the ſecond and third reading, it " appeared quite languid and inapplicable." " What! ſaid Lyſias ſmiling, do you forget " that you are to ſpeak it but once to the jury?" This mode would, for many obvious reaſons, be hardly practicable among us; yet, in ſome criminal caſes, we have inſtances of artful and elaborate defences, at leaſt equal to thoſe of *Antipho*, compoſed or delivered by the priſoners themſelves: and, ſurely, no compoſitions require ſo much delicacy and judgement, ſince innocent men on ſuch occaſions are ſeldom eloquent. Sometimes both methods were united at the Athenian bar; and the party, having told his ſtory in a ſet ſpeech, was ſucceeded by his advocate, who pronounced the peroration in a loftier ſtrain: of this we have ſome examples in Demoſthenes, who is called up by name to finiſh the ſpeech for Darius againſt Dionyſodorus; and that of Iſæus on the eſtate of Nicoſtratus was, I believe, of the ſame kind; for it contains very ſolid obſervations on laws and the nature of evidence, which would have come with a bad grace from the mouth of an ordinary client; and it concludes with a recapitulation of proofs, none of which appear in the preceding part; ſo that from theſe circumſtances we may collect, more certainly than from the opening

of the ſpeech, that it was delivered by the orator in his own perſon; nor is it in any reſpect unworthy of his reputation. It is hardly neceſſary to obſerve, what the reader will naturally imagine, that women and infants both ſued and were impleaded in the names of their huſbands, guardians, or next friends; as, in the diſputes about the eſtate of Hagnias, the *prochein amy* of young Stratocles exhibited the information, and delivered the charge, againſt Theopompus, whoſe ſon was afterwards attacked by the guardian of the third Eubulides. The time, which theſe judicial ſpeeches were not ſuffered to exceed, was previouſly fixed by the Archon according to the nature of the cauſe and the number of pertinent obſervations which it required; and this time was regulated by the dropping of water through a glaſs, called *clepſydra*, which was carefully ſtopped, when any verbal or written evidence was produced, or any law, will, or other inſtrument, was read to the court: this was a reſtriction in moſt caſes highly expedient for the diſpatch of buſineſs; although Tacitus conſidered the *Pompeian* law, by which the length of a criminal's defence was limited to three hours, as a check to the free courſe of eloquence; and, as the power of allotting the due quantity of water ſeems to have been diſcretionary in the magiſtrate, the ſucceſs of a cauſe

might, perhaps, depend too much upon his vigilance, attention, and ſagacity: on the whole, we proceed better, I think, without any ſuch reſtraint.

It does not appear, that two or more advocates were ever heard at Athens on the ſame ſide, as they were at Rome, and commonly are with us on legal queſtions. Cicero, in his pleaſing book on Famous Orators, objects warmly to this practice; but his objections, in my apprehenſion, are not weighty: when he was a boy, there were but ſix advocates in the fulleſt buſineſs; nor have we many more, who are ſure to be retained in every cauſe of great importance; to determine who are the Craſſus and Antonius, who the Philippus and Cæſar, who the Cotta and Sulpicius, of our Engliſh bar, would be a taſk no leſs invidious than unneceſſary; but if the moſt eminent were always to ſpeak without any ſubalterns, a young barriſter might be condemned at Weſtminſter to a ſilence of twenty years.

If the reader has but opened the following work, he muſt have obſerved, that the Athenian advocates called their witneſſes and read their depoſitions, as they went along, in proof of their ſeveral points, inſtead of crouding all their evidence together at the concluſion of their ſpeeches; and, although eloquence flows more

agreeably and oſtentatiouſly in a continued ſtream, yet their method ſeems better calculated than ours for the purpoſe of enlightening and convincing the jury; ſince, as *Dionyſius* remarks, *a number of proofs collected in one place, and belonging to a variety of heads, is inconſiſtent with perſpicuity.* The witneſſes were examined, and, I doubt not, croſs-examined, in the preparatory ſtages of the cauſe; but they were not ſworn till the day of the trial, when they took the oath together at the altar with all poſſible ſolemnity, and were afterwards called before the tribunal to confirm their depoſitions, or, if neceſſary, to correct and explain them; ſo that the practice of the Athenians happily united the advantages of both oral and written teſtimony. This was the form of a depoſition in one of their moſt celebrated cauſes: "SOSIA depoſes, "that Calliſtratus, his wife's father, was firſt "couſin to Polemo, the father of Hagnias, and "to Charidemus, the father of Theopompus; "that his mother was ſecond couſin to Polemo; "and that ſhe often told him, that Phylomache, "the mother of Eubulides, was ſiſter of the "whole blood to Polemo, the father of Hag-"nias, and that the ſaid Polemo never had a "brother." They admitted, we ſee, hearſay evidence even of particlar facts, as it appears

alſo from the ſpeech on the eſtate of *Ciron*; and, when it was expedient to perpetuate the teſtimony of perſons going abroad or likely to be detained by ſickneſs, it was uſual, in the preſence of reputable witneſſes, to take their depoſitions, which were called ἐκμαρτυρίαι, and might afterwards be read when the cauſe was ripe for a hearing. If a witneſs was ſummoned, he was obliged to attend the trial under pain of perpetual infamy; and, if he was really ignorant of the facts in queſtion, the court permitted him to *abjure*, or ſwear that he knew nothing of the matter; but, if he would neither give evidence nor abjure, the law condemned him to pay a fine of above five-and-thirty pounds, a ſum by no means inconſiderable in a country where money was extremely ſcarce: thus Hierocles proteſts his ignorance of a material fact in the cauſe concerning the eſtate of *Aſtyphilus*, where the ſenſe directs us to read Ἐξωμοσία, or *abjuration*, inſtead of Μαρτυρία, or *evidence*, which he refuſed to give. I am perſuaded, that objections were frequently made to the competence of witneſſes; and, when they were received, many arguments were uſed and ſingular proofs adduced by the adverſe party to affect their credibility: thus the ſeventh ſpeech of Iſæus cloſes with a violent attack upon Diocles, whom the

orator accuſes of the moſt atrocious crimes, and even produces evidence that he had been a diſhoneſt guardian and an adulterer.

In the admiſſion of evidence they ſeem to have indulged an extraordinary latitude; as in the firſt cauſe, on the revocation of a will, they heard proof of an opinion declared by the friends and relations of the deviſees, that the property of Cleonymus ought to be divided among the contending parties; and many other ſingularities of this kind will be ſeen in the reſt of the ſpeeches: but we muſt never forget, that the δικασταὶ were judges of fact, law, and equity, with ample powers of deciding according to the juſtice of every caſe; ſo that the parties were permitted in general to prove whatever tended to place them in a favourable light; and this accounts for the popular topicks to the jury, which occur ſo often in Iſæus, Demoſthenes, and Lyſias, that their clients had contributed largely to defray the expenſes of the ſtate, had furniſhed gallies, ſerved chargeable offices, given handſome entertainments, and lived parſimonioufly in private, that they might act liberally in publick, while their adverſaries either concealed their fortunes, or were remiſs and penurious in their contributions; topicks, which no advocate in his ſenſes would urge before judges of the bench, but which ſeem well adapted to

the conſtitution at the courts at Athens, where the democracy could never have flouriſhed, unleſs all the citizens had vied with each other in ſupporting it; and, as in ſome ſtates certain offenders are excluded from the protection of the law, ſo in a republick few offences can deſerve that excluſion more juſtly than a want of zealous affection to the commonwealth. After all, we have no reaſon to regret, that, in private cauſes at leaſt, an Engliſhman is ſure to obtain juſtice, although he may not have paid his annual taxes with eagerneſs, or ſerved the office of ſheriff with great alacrity; and we may triumph in our elegant and philoſophical theory of evidence, which Ariſtotle and Plato muſt have admired, and by the ſtrict rules of which all trials in the world ought to be directed.

A few other particularities will be remarked in the ſpeeches of Iſæus; as, an appeal by Menexenus to the knowledge of the jurors themſelves, concerning ſome tranſactions at a former trial; witneſſes, who happened to be preſent, called upon to give evidence for Ciron's grandſon; alluſions by the brother of Aſtyphilus to what was paſſing in court; the proſecutor openly interrogated by Theopompus at the beginning of his defence: moſt of theſe circumſtances are inconſiſtent with ſet ſpeeches compoſed by the orator and pronounced by the party; and

one would almoſt be tempted to conjecture, that the advocate himſelf ſpoke in the perſon and character of his client, if the ſtory before cited from Plutarch and other authorities were not deciſive of the contrary.

When the defendant had cloſed his ſpeech (for I find no certain traces of any reply by the complainant) the jurymen gave their ſentence by caſting pellets or beans into the urns allotted to the parties, and, in caſes of inheritances, every claimant in a diſtinct right had a ſeparate urn, but a ſingle one ſerved for all thoſe who claimed under the ſame title: the magiſtrate then counted the pellets, and declared the judgement; and here ended his ἡγεμονία, or *preſidency* of the court; for he had no power to direct or influence the jury; and *Lyſias* aſks with ſome warmth, *What could be more diſgraceful and abominable, than if the Archon, in cauſes concerning heireſſes, ſhould dare to ſolicit the judges, and deſire them to find a verdict according to his pleaſure?* This regulation deſerves to be applauded, and would even be worthy of imitation, if the complex queſtions and nice points, which an *Engliſh* jury are often required to determine, did not make it abſolutely neceſſary for them to receive light and aſſiſtance from the learning and experience of a judge.

If the complainant failed of ſucceſs, he was amerced for his falſe claim, which amercement was uſually a ſixth part of the ſum demanded: in all caſes the unſucceſsful party forfeited his depoſit, and the fines and forfeits were ſpeedily collected by the ταμίαι, or officers of the revenue, who paid them into the treaſury, where ſome of them were appropriated for the payment of the jurymen, and the reſt applied to the ſervice of the publick.

To the courts at Athens appeals lay from the deciſions of the ſtanding *arbitrators*, of whom there were four hundred and forty in different parts of Attica, forty-four being drawn by lot from each of the ten tribes: two of them commonly gave judgement in every cauſe; and we find, in the fragment againſt the burgeſſes of Erchia, that their tribunal was ſometimes placed in the Delphinian temple of Apollo. As very little occurs in the following ſpeeches concerning this court, it is needleſs to diſcourſe at large on its origin and conſtitution; but we may obſerve, that its decrees muſt always be diſtinguiſhed from the awards of arbitrators freely choſen by the parties themſelves, and generally ſworn to do juſtice, from which there was no appeal.

Before I conclude this prefatory part of my

work, it will be proper to mention ſuccinctly, that the people of Athens, who had the freedom of the city and governed the republick, were divided into ten tribes; that the tribes compriſed a number of boroughs, diſperſed in various parts of Attica; that each borough was ſubdivided into wards, and each ward compoſed of diſtinct families. Every legitimate child, who was named on the tenth day after his birth, was preſented, before his ſeventh or eighth year, to the citizens of his ward with many ceremonies, to which we find alluſions in the following ſpeeches: the time for preſenting natural children was the feſtival, called Apaturia, which laſted four days in January; but adopted ſons were admitted at the feaſts of Thargelia in July, as we may collect from the ſpeech on the eſtate of *Apollodorus*, where the reader will ſee a deſcription of the forms uſual on theſe occaſions. If the members of the ward were ſatisfied of the child's legitimacy, and none of them removed from the altar the victim called κἀρριον, which was ſacrificed in their preſence and diſtributed among the company, the name of the new citizen was inſcribed on their *common* regiſter; but he was not a complete burgeſs till the age of twenty years, when he was regiſtered on the *publick* roll of his father's borough.

This will be a ſufficient introduction to the works of the author, whom I now ſend abroad in an Engliſh dreſs: the four orders of Athenian citizens, their military and religious inſtitutions, their funeral rites, their celebrities in honour of Ceres and Proſerpine, of Pallas and Prometheus, with their greater and leſs feſtivals of Bacchus, are known to all, who have received the ſlighteſt tincture of Grecian learning; but ISÆUS will give full ſatisfaction to thoſe only, whoſe imagination can for a time tranſport them to his country, who can live in idea two thouſand years ago, and read an Attick orator with the mind, and, as it were, the eyes of an Athenian; in the ſame manner as an aſtronomer, to borrow a compariſon from the excellent writer on Hebrew poetry, ſuppoſes himſelf to become for a while an inhabitant of every planet, where he obſerves its peculiar qualities, and its ſituation with reſpect to others, meaſures their diſtances, compares their motions, and forms a diſtinct view of the whole univerſe.

ATTICK LAWS.

I.

WHEN a woman, in order to enjoy the rights of a lawful wife, has been duly betrothed by her father, or her brother by the ſame father, or her paternal grandſire, her children born in wedlock are legitimate. If none of thoſe relations be living, and ſhe be an heireſs, let her neareſt kinſman marry her; but, if ſhe have no kinſman entitled to claim her, let him, who ſhall be appointed her guardian, give her in marriage.

II.

The legitimate ſons of heireſſes ſhall enter upon their eſtates at the age of ſixteen years, and ſhall allow their mothers a ſuitable maintenance.

III.

If the neareſt kinſman of a woman without an eſtate refuſe to marry her, he ſhall give her in marriage with a portion of five minas, if he belong to the firſt order of citizens; or of three, if he belong to the ſecond; or of a mina and a half, if he be of the third claſs. If ſhe have many kinſmen in the ſame degree, they ſhall ſeverally contribute to her por-

tion; and if there be many ſuch women, each of their kinſmen ſhall be obliged to marry or to give in marriage one of them only. If the next of kin will neither marry them nor give them in marriage, the Archon ſhall compel them to do either one or the other; and, if he neglect this duty, he ſhall forfeit ten minas to the Temple of Juno. Any citizen may prefer a complaint before the Archon againſt ſuch as diſobey this law.

IV.

Let the Archon take care of orphans and heireſſes, of deſolate heritages, and of women, who, alledging that they are enceint, remain in the houſes of their deceaſed huſbands: let him not ſuffer them to be inſulted or injuriouſly treated. If any one ſhould injure them, let him impoſe a fine within the limits of his authority; and, if the offender ſhould ſeem deſerving of a heavier puniſhment, let the Archon ſummon him to appear within five days, and, laying the damages at ſuch a ſum as he thinks proper, let him bring him to a trial in the court of Heliæa, where, if he be found guilty, let the jury inflict ſuch a corporal pain, or ſet ſuch a fine, as he ſhall deſerve.

V.

If a huſband repudiate his wife, he ſhall return her portion, or pay intereſt for it at the rate of nine obolus's a month for every mina. Her next of kin, under whoſe protection ſhe is, may ſue for her portion or her alimony before the Archon in the Odeum.

VI.

All genuine unadopted citizens may deviſe their eſtates as they think fit, provided that they have no legitimate children, and be not diſabled by lunacy or age, or poiſon or diſeaſe,

nor influenced by women ſo as to have loſt their reaſon from any of theſe cauſes, nor be under any dureſs or confinement.

VII.

The wills of ſuch as have legitimate ſons ſhall ſtand good, if thoſe ſons die before their age of ſixteen years.

VIII.

If a man have legitimate daughters, he may deviſe his eſtate as he pleaſes, on condition that the deviſees take them in marriage.

IX.

Infants and women ſhall not transfer or deviſe more than the value of a buſhel of barley.

X.

Adopted ſons ſhall not deviſe the property acquired by adoption; but, if they leave legitimate ſons, they may return to their natural family. If they do not return, the eſtates ſhall go to the heirs of the perſons who adopted them.

XI.

The adopted ſon and the after born ſons of the perſon who adopted him, ſhall be coheirs of the eſtate; but no adoption by a man, who has legitimate ſons then born, ſhall be valid.

XII.

If a citizen die inteſtate and leave daughters, the neareſt kinſmen who marry them ſhall inherit the eſtate; but, if he die childleſs, his brothers by the ſame father ſhall be his

heirs, and the legitimate ſons of thoſe brothers ſhall ſucceed to the ſhare of their fathers. If there be no brothers, the ſiſters on the father's ſide, and their children, ſhall inherit. On failure of ſiſters and nephews, the couſins on the father's ſide ſhall be heirs in the ſame manner; but males and the children of males ſhall be preferred, although in a remoter degree, provided that they belong to the ſame branch. If there be no kinſman on the father's ſide ſo near as the ſecond couſins, then let thoſe on the mother's ſide ſucceed to the eſtate in the ſame order. Should there be no maternal kinſmen within the degree above limited, the next paternal kinſmen ſhall be the heirs.

XIII.

No male or female baſtard, born after the Archonſhip of Euclid, ſhall ſucceed either to ſacred or civil rights.

XIV.

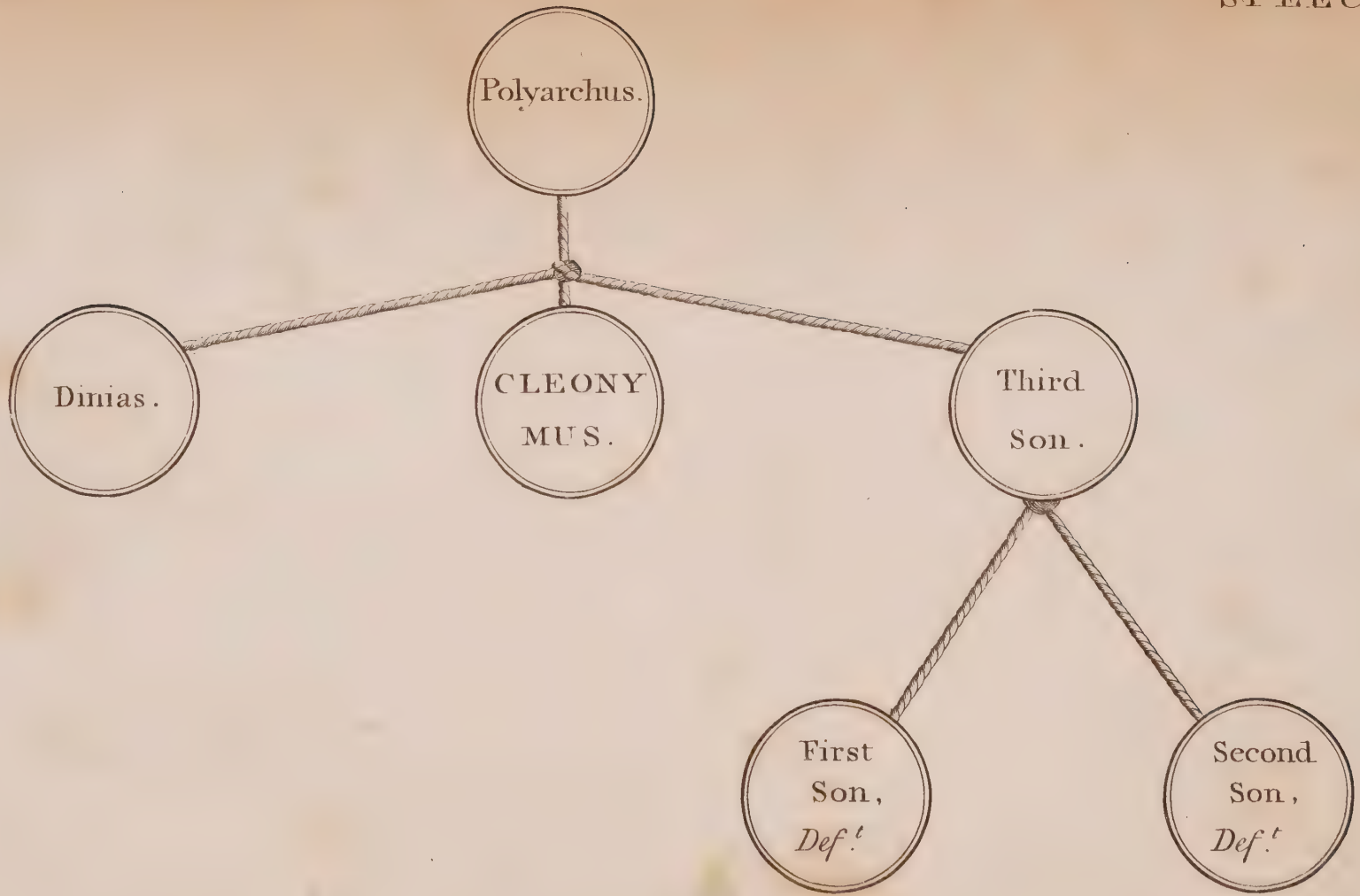
Inheritances and heireſſes may be claimed every month in the year except Auguſt, and no deviſee ſhall poſſeſs an eſtate except by an adjudication of the court.

XV.

If any man ſhall controvert the title of another, to whom an inheritance or an heireſs has been adjudged, let him cite his adverſary before the Archon, as in other cauſes. The demandant ſhall depoſit a ſtated ſum as a pledge of proſecution, and, if there be no citation, the judgement ſhall be reverſed. If the perſon, to whom the eſtate was adjudged, be dead, his heir may be impleaded in the ſame form, provided that the limited time be not expired. Let the ſuit proceed before the Archon in the ſame manner as the claim was at firſt made by the poſſeſſor of the inheritance in diſpute.

NOTE.

The Athenians made no difference between the tranſmiſſion of real and perſonal property: in theſe laws, therefore, and in the following ſpeeches, the words *deviſe, heir, inheritance*, and the like, are applied both to lands and to goods, without being reſtrained to the peculiar ſenſe in which we uſe them.


Polyarchus.
Dimas.
CLEONY
MUS.
Third
Son.
First
Son,
Def.t
Second
Son,
Def.t

THE

SPEECHES OF ISÆUS.

SPEECH THE FIRST.

ON THE ESTATE OF CLEONYMUS.

THE ARGUMENT.

POLYARCHUS left three sons, Cleonymus, Dinias, and the father of those, for whom Isæus composed the following speech. The third son dying, his children were committed to the guardianship of Dinias. These young men were heirs to Cleonymus by the laws of Athens, and their grandfather had appointed them successors to their uncle, if he should die childless. Cleonymus had, however, a power to dispose of his property; and, in a fit of anger against his brother Dinias, for some real or imagined wrong, had made a will in favour of two remoter kinsmen, Diocles and Posidippus; which,

Conſider then on what grounds the parties, who come before you, reſpectively reſt their claims: theſe men rely on a will, which our uncle, who imputed no blame to us, made in reſentment againſt one of our relations, but virtually cancelled before his death, having ſent Poſidippus to the magiſtrate, for the purpoſe of ſolemnly revoking it; but we, who were his neareſt kinſmen, and moſt intimately connected with him, derive a clear title, both from the laws, which have eſtabliſhed our right of ſucceſſion, and from Cleonymus himſelf, whoſe intention was founded on the friendſhip ſubſiſting between us; not to urge, that his father, and our grandfather, Polyarchus, had appointed us to ſucceed him, if he ſhould die without children: ſuch and ſo juſt being our claim, theſe aſſociates, who are nearly related to us, and who have no colour of juſtice on their ſide, are not aſhamed of conteſting our title to an eſtate, about which it would be diſgraceful for mere ſtrangers to contend. Nor do we ſeem, judges, in this cauſe to have the ſame diſpoſitions towards each other; for I do not conſider it as the greateſt of my preſent misfortunes to be unjuſtly diſturbed with litigation, but to be attacked by thoſe, whom it would be improper even to repel with any degree of violence; nor ſhould I think it a lighter calamity to injure

my relations in my own defence, than to be injured myſelf by their unprovoked aſſault: but they, judges, have different ſentiments, and appear againſt us with a formidable array of friends, whom they have ſummoned, and advocates, whom they have retained; leaving behind them no part of their forces, as if they were going to inflict vengeance on open enemies, and not to wrong thoſe whom they were bound by every natural and ſocial tie to aſſiſt. Their ſhameleſs audacity and ſordid avarice will be more clearly perceived by you, when you have heard the whole caſe, which I ſhall begin to relate from that part, whence you will ſooneſt and moſt eaſily learn the ſtate of our controverſy.

Dinias, our father's brother, was our guardian, he being our elder uncle, and we, orphans; at which time, judges, a violent enmity ſubſiſted between him and Cleonymus: whether of the two had been the cauſe of the diſſenſion, it is not, perhaps, my buſineſs to determine; but ſo far at leaſt I may pronounce them both deſervedly culpable, that, having till then been friends, and no juſt pretext ariſing for a breach of their friendſhip, they ſo haſtily became enemies on account of ſome idle words. Now Cleonymus himſelf, when he recovered from that illneſs, in which he made his will, declared,

that he wrote it in anger; not blaming us, but fearing, leſt at his death he ſhould leave us under age, and leſt Dinias our guardian ſhould have the management of our eſtate; for he could not ſupport the pain of thinking, that his property would be poſſeſſed during our infancy, and that ſacred rites would be performed at his ſepulchre, by one, whom of all his relations he moſt hated, while he lived: with theſe ſentiments (whether laudable or not, I leave undecided), he made a diſpoſition of his fortune; and, when Dinias, immediately after, aſked him publickly, whether we or our father had incurred his diſpleaſure, he anſwered, in the preſence of many citizens, that he charged *us* with no fault whatever, but made the will in reſentment againſt *him*, and not from any other motive: how indeed, judges, could he have determined, if he preſerved his ſenſes, to injure us, who had given him no cauſe of complaint?

But his ſubſequent conduct will afford the ſtrongeſt proof, that by doing this he had no intention of wronging us; for, when Dinias was dead, and our affairs were in a diſtreſſed condition, he was ſo far from neglecting us, or ſuffering us to want neceſſaries, that he bred us in his own houſe, whither he himſelf had conducted us, and ſaved our patrimony from unjuſt creditors, who ſought inſidiouſly to deprive

us of it; nor were our concerns leſs attentively managed by him than his own: from theſe acts, therefore, rather than from his written teſtament, it is proper to collect his intention towards us; and not to be biaſſed by what he did through anger, by which all of us are liable to be hurried into faults, but to admit the clear evidence of thoſe facts, which afterwards explained his deſign. Still farther: in his laſt hours he manifeſted the affection, which he bore us; for, being confined by the diſorder of which he died, he was deſirous of revoking his will, and with that intent ordered Poſidippus to bring the officer who had the care of it; which order he not only diſobeyed, but even refuſed admittance to one of the magiſtrates, who came by chance to the door: Cleonymus, enraged at this, gave the ſame command on the next day to Diocles; but, though he ſeemed not dangerouſly ill, and we had great hopes of his recovery, he ſuddenly expired that very night.

Firſt then, I will prove by witneſſes, that he made this will, not from any diſlike to us, but from a ſettled averſion to Dinias; next, that, when Dinias was no more, he ſuperintended all our affairs, and gave us an education in his houſe, to which he had removed us; and thirdly, that he ſent Poſidippus for the magiſtrate, who was ſo far from obeying the order, that,

when one of the proper officers came to the door, he refuſed to introduce him. Call thoſe who will prove the truth of my aſſertion. WITNESSES. Call likewiſe thoſe, who will ſwear, that Cephiſander and the other friends of our adverſaries were of opinion, that the whole eſtate ſhould be divided, and that we ſhould have a third part of all, which Cleonymus poſſeſſed. WITNESSES.

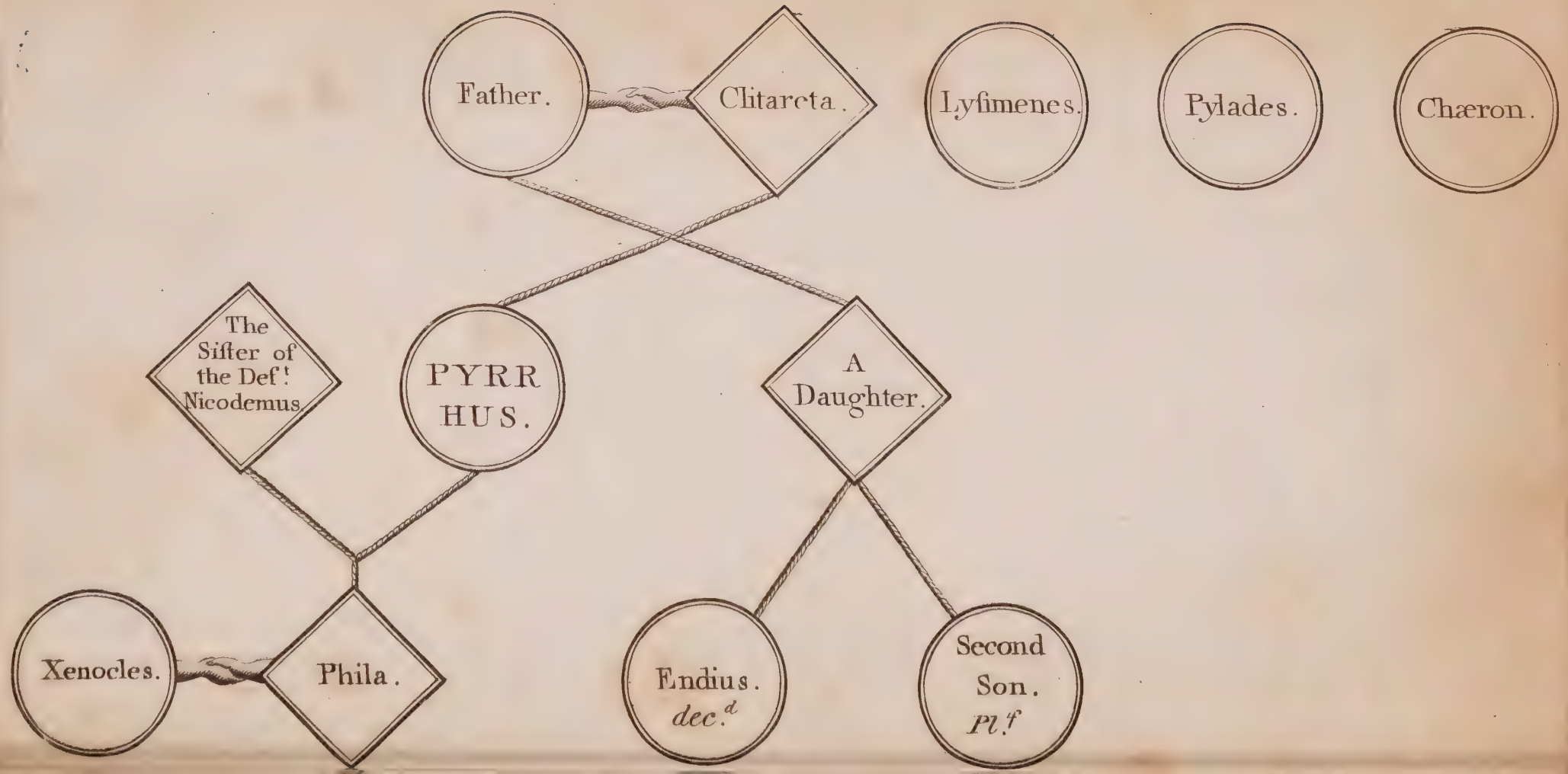
Now it ſeems to me, judges, that all thoſe who contend for the right of ſucceſſion to eſtates, when, like us, they have ſhown themſelves to be both neareſt in blood to the perſon deceaſed, and moſt connected with him in friendſhip, may be excuſed from adding a ſuperfluity of other arguments: but ſince men, who have neither of thoſe claims, have the boldneſs to diſpute with us for that which is legally ours, and to ſet up a fictitious title, I am willing in a few words to give them an anſwer. They ground their pretenſions on this will, and admit that Cleonymus ſent for the magiſtrate; not, ſay they, with an intent to cancel it, but with a reſolution to correct it, and to ſecure the legacy more ſtrongly in their favour: now conſider, whether it be more probable, that our uncle ſhould wiſh to recall a will made in anger, at a time when he was moſt intimate with us, or ſhould meditate by what means he might

be ſureſt to deprive us of his inheritance. Other men, indeed, uſually repent at length of the wrongs, which they have done their friends in their paſſion; but our opponents would convince you, that, when he ſhowed the warmeſt regard for us, he was moſt deſirous of eſtabliſhing the will, which, through reſentment againſt our guardian, he had made to our diſadvantage: ſo that, even ſhould we confeſs this idle fiction, and ſhould you perſuade yourſelves to believe it, you muſt ſuppoſe him to have been mad in the higheſt degree; for what madneſs could be greater than to injure us, becauſe he had quarrelled with Dinias, and to make a diſpoſition of his property, by which he took no revenge on his enemy, but ruined his deareſt friends, and afterwards, when we lived with him on terms of the ſtricteſt friendſhip, and he valued us above all men, to intend that his nephews alone (for ſuch is their aſſertion) ſhould have no ſhare in his fortune? Could any man, judges, in his ſenſes entertain ſuch a thought concerning the diſtribution of his eſtate?

Thus from their own arguments they have made it eaſy to decide the cauſe againſt themſelves; ſince if he ſent for the officer, as we contend, in order to cancel the will, they have not a ſhadow of right; and, if he was ſo void of reaſon, as to regard us leaſt, who were moſt

nearly connected with him, both by nature and friendſhip, you would juſtly decree, that his will was not valid. Conſider farther, that the very men, who now prètend, that Cleonymus deſigned to eſtabliſh their legacy, durſt not obey his order, but diſmiſſed the magiſtrate, who came to the houſe; and thus, one of two moſt oppoſite things being likely to happen, either a ſtronger confirmation of the intereſt bequeathed to them, or a total loſs of all intereſt in the fortune of the teſtator, they gave a plain indication of what they expected, by refuſing to admit the perſon who kept the will.

To conclude: ſince this cauſe has been brought before you, and ſince you have power to determine the conteſt, give your aid both to us and to him, who lies in the grave; and ſuffer him not, I adjure you by all the gods, to be thus deſpiſed and inſulted by theſe men; but, remembering the law, by which you are to judge, the oath, which you have ſolemnly taken, and the arguments, which have been uſed in the diſpute, give a juſt and pious judgement, conformably to the laws.


Father.
Clitarcta.
Lyſimenes.
Pylades.
Chæron.
The Siſter of the Def! Nicodemus.
PYRR HUS.
A Daughter.
Xenocles.
Phila.
Endius. dec.d
Second Son. Pl.f

SPEECH THE SECOND.

ON THE ESTATE OF PYRRHUS.

THE ARGUMENT.

PYRRHUS left his estate to Endius, one of his sister's sons, whom he had adopted; and his nephew continued in possession of it above twenty years; but when, after his death, his mother claimed the inheritance as her brother's heiress, one Xenocles, who had married Phila, a natural daughter of Pyrrhus by the sister of Nicodemus, entered a protestation, that Pyrrhus had a legitimate daughter, and was consequently disabled from disposing of his estate to an adopted son. Xenocles lost the cause; but, Nicodemus having sworn at the trial, that he had betrothed his sister to Pyrrhus as a lawful wife, and that Phila was born after their nuptials, the brother of Endius prosecutes Nicodemus for wilful perjury, insisting that Phila was illegitimate, and actually given in marriage to Xenocles as the bastard of Pyrrhus.

SPEECH THE SECOND.

The Brother of Endius againſt Nicodemus.

PYRRHUS, my maternal uncle, judges, having no legitimate children, adopted my brother Endius, who ſucceeded to his fortune, and continued in poſſeſſion of it above twenty years; in which long interval not a ſingle man ever pretended to controvert his title, or to diſpute the validity of his adoption: but, laſt year, on the death of my brother, this Phila, who had ſuffered him to enjoy the eſtate without interruption, aſſerted, that ſhe was the legitimate daughter of my uncle; and her huſband Xenocles the Cyprian entered a claim in her right to the effects of Pyrrhus, who had ſo long been dead, alledging in his bill of complaint, that he died poſſeſſed of three talents; and, when my mother inſiſted on the ſuperiority of our claim, he had the confidence to proteſt, that ſhe had no title to the eſtate, becauſe Pyrrhus, to whom it originally belonged, had left a daughter born in wedlock: we traverſed this proteſtation; and, having brought before the court the perſon who ventured to make it, we clearly convicted him of having ſworn falſely, and prove his confe-

derate Nicodemus to be the moſt impudent of men in ſupporting the other's teſtimony, and daring to aſſert upon oath, before the ſame judges, that he had betrothed his own ſiſter to my uncle, and that ſhe became his lawful wife. Now that this man's evidence at the former trial was falſe, the conviction of Xenocles undeniably demonſtrates; for, if Nicodemus had not then been thought perjured, it is clear, that his aſſociate would have ſucceeded in his proteſtation; that the legitimacy of this woman would have been eſtabliſhed; and that ſhe, not my mother, would have been declared my uncle's heireſs; but, ſince the principal actor in the cauſe was convicted of perjury, and the pretended daughter of Pyrrhus deſiſted from her claim, Nicodemus was at the ſame time neceſſarily found guilty of giving falſe evidence; for he ſwore to the truth of the ſame propoſition, and they were both examined to the ſame point, namely, whether the woman, in whoſe right Xenocles claimed, was my uncle's daughter by a wife or by a harlot: this was the ſingle iſſue between us, as you will perceive by hearing our croſs-depoſitions, the evidence of Nicodemus, and the proteſtation, which was over-ruled. Take and read them to the court. CROSS-DEPOSITIONS. EVIDENCE. PROTESTATION.

That the man, whom I now accuſe, was im-

mediately thought guilty of perjury, was apparent to all who attended the trial; but it will be proper that his guilt be proved before you alſo, judges, who are aſſembled to decide the ſame queſtion.

I deſire firſt to aſk this witneſs himſelf, what fortune he gave with his ſiſter to a man worth three talents; whether this betrothed wife left her huſband, whilſt he was alive, or departed from his houſe after his death; from whom he received his ſiſter's portion, when Pyrrhus was dead, to whom he has ſworn that he had given her in marriage; or, if it was not reſtored to him, what action he thought proper to inſtitute, for her maintenance or her fortune, againſt one, who has been twenty years in poſſeſſion of the inheritance; or whether, in ſo long a period, he once demanded the portion from the heir in any man's preſence? On the following points too I ſhould be glad to interrogate him; why nothing of what I have juſt mentioned has been done for a widow, who, as he ſwore, was lawfully married; and, whether ſhe had been betrothed to any other man, either of thoſe, who were formerly connected with her, before ſhe knew my uncle, or of thoſe whom ſhe admitted to her favours, while ſhe lived with him, or of thoſe, who have been intimate with her ſince his deceaſe? for it is notorious, that her brother

gave her on the ſame terms to many others, who kept her as a miſtreſs, and whom, if it were neceſſary to enumerate, it would give me no ſmall trouble: ſome of them I will mention, if you command me; but, if it be as unpleaſant to you to hear ſuch tales, as it is diſagreeable to me to relate them, I will be contented with producing the very evidence given at the former trial, no part of which they have ventured to contradict; yet, when they admit (as they have in fact admitted, by not attempting to impeach the teſtimony of our witneſſes) that this woman was a common harlot, how can it be conceived, that ſhe was legally betrothed to Pyrrhus? You will be convinced, when you have heard the depoſitions, both that Nicodemus has ſworn what was apparently falſe, and that the judges gave a proper and legal ſentence, when they decreed, that the ſucceſſion could not belong to the daughter of a woman not lawfully married. Read the depoſitions, and let the water-glaſs be ſtopped. DEPOSITIONS. That the mother of this Phila was common to all who choſe to be connected with her, and was not the betrothed wife of my uncle, as Nicodemus had the boldneſs to ſwear, has been proved to you by the other kinſmen and neighbours of Pyrrhus, who tell you of the quarrels, riotous feaſts, and continual diſorders

on her account, while ſhe lived with him; but no man preſumes to revel at the houſes of married women, who never accompany even their huſbands to publick entertainments, nor think it conſiſtent with decency to ſit at table with ſtrangers, eſpecially with the firſt who preſent themſelves; yet they have not attempted to invalidate this evidence: now to ſhow that I repeat it fairly, read once more the depoſitions of the neighbours, together with thoſe of the other witneſſes concerning her numerous train of lovers, which will ſatisfy the court, that ſhe was a common proſtitute, and never was the mother of a legitimate child. DEPOSITIONS.

From all this evidence, which you will carry in your memory, it is apparent, that the ſiſter of Nicodemus, whom he ſwore that he gave in marriage to my uncle, might have been any man's miſtreſs, but was never betrothed to any, nor ever ſupported the character of a matron: let us now conſider the circumſtances, from which it may be thought poſſible, that Pyrrhus really married ſo abandoned a woman, if we can ſuppoſe him capable of ſuch indiſcretion (for it ſometimes happens indeed, that young men, inflamed with the love of a harlot, and actuated by intemperate paſſion, are induced by their folly to ruin themſelves by ſuch a marriage); and how can theſe circumſtances be more clearly

known, than by recollecting the teſtimony of their own witneſſes in the original cauſe, and by examining the probability of the whole tranſaction? Reflect a moment on the impudence of their aſſertion: this Nicodemus, when he was going, as he ſays, to betroth his own ſiſter into a family worth three talents, pretends that he carried with him, on ſuch an occaſion, one witneſs only, named Pyretides, whoſe depoſition they produced at the trial of the cauſe; a depoſition, which Pyretides himſelf diſclaimed; and he ſtill denies, that he gave any ſuch evidence, or knows any thing of the matter. In confirmation of this, I will mention a convincing argument, that the depoſition produced by them was forged; for you all know, that when we are going to do any publick and deliberate act, which muſt be witneſſed, we take with us our neareſt relations and moſt intimate friends, in order to have the benefit of their atteſtation; but in private acts, which are often done on a ſudden, we are contented with ſuch witneſſes, as happen to be near at hand; and, when afterwards their evidence becomes neceſſary, we muſt call thoſe, whoever they are, that were preſent at the time of the act; but when we procure the teſtimony of a witneſs, whom ſickneſs prevents from giving it publickly, or of one who is going abroad, we deſire the preſence of the

moſt reputable citizens, and of thoſe whom we beſt know, not of one or of two, but of as many as we can aſſemble, to preclude the deponent at any future time from the power of denying his depoſition, and to give his evidence more weight with you, judges, by confirming it with the atteſtation of many honeſt men: thus, when Xenocles went to Thebes, with an intention to eject our ſervants from the mines, which had been left us, he thought it not ſufficient to call any perſons, who happened to be there, as witneſſes of that ouſter, but he carried with him Diophantus of Sphettus, who was his advocate in the original cauſe, and Dorotheus of Eleuſis, together with his brother Philochares, and many others, whom he had collected at Athens, and who travelled for that purpoſe full three hundred furlongs; yet, when he was going, as he ſays, to take a depoſition in this very city concerning the marriage of his wife's mother on which her legitimacy depended, he called together none of his friends, but only Dionyſius of Erchia and Ariſtolochus of Æthalia in the preſence of whom it is aſſerted that the depoſition was taken in the heart of Athens. Such are the pretences of theſe impoſtors, none of which can find credit with any diſcerning man! The act, which they ſay Pyretides atteſted, was frivolous, to be ſure, and of a tri-

ſling nature; ſo that their negligence in this affair was not ſingular. How! was not that act to have determined the very point, on which Xenocles was tried for perjury, whether his wife was the daughter of Pyrrhus, by a married woman, or by a harlot? Would he not, if ſuch a marriage had really been contracted, have aſſembled all his friends for the purpoſe of atteſting it? Moſt aſſuredly he would, if their ſtory had not been a fiction; but Xenocles omitted this neceſſary precaution, and took only two perſons, whom he accidentally met, to be preſent at a depoſition of ſuch importance; and this Nicodemus himſelf pretends, that when he gave his ſiſter in marriage to a man of ſo conſiderable a fortune, he carried with him no witneſs but Pyretides, who abſolutely denies the fact. Lyſimenes, indeed, aſſerts that he was invited to the marriage, together with his brothers, Chæron and Pylades; and theſe three were the uncles of the man, who was going to form ſo debaſing an alliance: but you will conſider, whether this be credible; for, to reaſon from probabilities, I ſhould imagine, that Pyrrhus would rather have kept the tranſaction ſecret from all his relations, if he meditated a contract ſo diſgraceful to his family, than have called his own uncles to be witneſſes of their diſgrace. This alſo fills me with ſurprize,

that there was no agreement concerning a portion either on the one ſide or on the other; for, if Nicodemus gave his ſiſter a fortune, it is to be ſuppoſed, that thoſe, who pretend to have been preſent, would have recollected the ſum given; or, if our uncle was ſo enſlaved by his paſſions, as to marry a common proſtitute, her brother would have been ſtill more ſolicitous to procure evidence of his giving money with her, and would have aſſembled a number of witneſſes, that Pyrrhus might not have it in his power to diſcard her, when he pleaſed; for none of you are ignorant, that the inclinations of men impelled by their deſires are very changeable; yet this fellow ſwears, that he gave his ſiſter in marriage to ſo rich a man before one witneſs only on his part, and without any acknowledgement of a portion; and the uncles aſſert, that they were preſent, when their nephew agreed to marry this harlot without a fortune.

Theſe very uncles too have ſworn that they were invited by Pyrrhus to an entertainment, which he gave on the tenth day after the birth of his daughter: and here I cannot ſuppreſs the vehemence of my indignation, when I ſee, that Xenocles, who claims the patrimony of his wife, has called her in his bill of complaint by the name of Phila, while the uncles of Pyrrhus,

who ſwear that they were preſent on the tenth day, have declared, that her father gave her the name of her grandmother Clitareta. It is aſtoniſhing, that a man, who has now been married above eight years, ſhould not know the true name of his own wife; that he could not have learned it before from his own witneſſes; that neither his wife's mother, nor her uncle Nicodemus, ſhould in ſo long a period have informed him of it; but that, inſtead of her grandmother's name (if that name was in fact given her by Pyrrhus) he ſhould inſert the name of Phila in the very bill, by which he demands her paternal inheritance. What could be his motive? Could a huſband mean to deprive his wife of her grandmother's name, which her father gave, and which might be urged as a proof of her legitimacy? Is it not apparent, judges, that theſe pretended tranſactions, which, as they ſwear, happened ſo long ago, were invented by our adverſaries long ſince the beginning of this ſuit? They manifeſtly were: for it is not poſſible, that theſe men, who ſay they were invited on the tenth day after the birth of this girl, the daughter of Pyrrhus and niece of Nicodemus, ſhould remember ſo accurately from that day, whenever it was, to this, and ſhould ſwear in court ſo poſitively, that her father named her Clitareta, yet that her neareſt relations, her fa-

ther himſelf, her uncle, and her mother, ſhould not know the name of their own child: they muſt have known and uſed it, if the fact had been true; but of this I ſhall again have occaſion to ſpeak.

As to the teſtimony of Nicodemus, it is eaſy to perceive from the laws themſelves, that he was apparently guilty of perjury; for, ſince, when a man gives a female relation in marriage with a ſum of money by way of free gift and not as a portion, for which an equivalent muſt be ſettled, he cannot legally require that money to be given back, if either the wife ſhould leave the huſband, or the huſband diſmiſs the wife, whoever aſſerts that he has betrothed his own ſiſter without a ſecurity for her portion, muſt neceſſarily appear a moſt daring impoſtor: for what would ſuch an alliance avail him, if the man to whom he was allied might repudiate his wife, whenever he choſe, without inconvenience? Yet ſuch would have been her condition, jndges, had there been no ſtipulation concerning her fortune. Would Nicodemus have engaged his ſiſter to our uncle upon theſe precarious terms, eſpecially when he knew that ſhe had never borne a child in ſo long a courſe of proſtitution, and that the ſtipulated portion would by law return to him, if ſhe ſhould die childleſs? Can any of you, judges, believe, that

Nicodemus is ſo negligent of lucre, as to let ſlip one of theſe advantages? I cannot think it probable: And is this the man, whoſe ſiſter our uncle choſe to marry? A man, who in an action brought againſt him as an intruder by one of the ward, of which he pretended to be a member, obtained indeed a ſentence in his favour, but was adjudged a freeman of the city by a majority of four votes only? Read this depoſition, in proof of what I have alledged. DEPOSITION. Yet this very man, who was perfectly well apprized of the law, by which he would have been entitled to his ſiſter's fortune, had ſhe died without children, has ventured to ſwear, that he gave her in marriage to our uncle, without agreeing with him for her portion. Read the laws, to which I allude. THE LAWS. Can you, I ſay again, believe that Nicodemus, if there had been any ſuch marriage, would have been ſo ſtupidly neglectful of his intereſt, as not to provide for his own advantage with a ſcrupulous attention? No, by heaven, it ſeems impoſſible, for even thoſe, who give women to others, as their miſtreſſes, with a ſum of money, take care previouſly to bargain for the benefits, which thoſe women are afterwards to enjoy: and was Nicodemus contented with the ceremony of betrothing his ſiſter according to the forms of law, without beſtowing a thought

upon any thing elſe? Nicodemus, who, for the paltry fees, which he hopes to ſcrape together for ſpeaking ſometimes before you, makes no ſcruple of acting with ſhameleſs diſhoneſty? His infamous conduct, indeed, moſt of you well know, without being reminded of it; and I am deſirous of proceeding to another argument, which will demonſtrate the abominable impudence of his aſſertions. Tell me, Nicodemus, how came it, that if you really gave your ſiſter in marriage to Pyrrhus, and if you knew that ſhe had left a legitimate daughter, you nevertheleſs permitted our brother Endius to claim and obtain the inheritance, without regarding our uncle's daughter, who was born, as you alledge, in lawful wedlock? Could you be ignorant, that, by his allowed claim of the ſucceſſion, your niece was baſtardized? For, whenever an adopted ſon ſets up a title to an eſtate and obtains a decree in his favour, he proves the daughter of the deceaſed to have been illegitimate; as her father Pyrrhus, indeed, had done long before, by adopting my brother as his own ſon; for no man, who has daughters lawfully begotten, can either deviſe his eſtate from them, or aliene any part of it to their diſadvantage: this you will clearly underſtand, judges, when the laws themſelves have been read to you. THE LAWS. Does it ſeem pro-

bable then, that, if Nicodemus did betroth his ſiſter, as he has moſt confidently ſworn, he would have ſuffered my brother Endius to claim the inheritance, without ſetting up the adverſe title of his own niece, and without entering a proteſtation, that Endius had no right to her patrimony? Now that our brother not only claimed this eſtate, but had his claim judicially allowed, and that without oppoſition, this piece of evidence will convince you. DEPOSITION. When, therefore, Endius inſtituted a ſuit for his inheritance, Nicodemus neither durſt diſpute his title, nor thought proper to proteſt, that Pyrrhus left a legitimate daughter, who was his niece: he will invent, I ſuppoſe, ſome ſilly pretext for this conduct, and will pretend either that he was unapprized of our proceeding, or that our allegations are falſe; but the firſt is impoſſible, and the ſecond we have diſproved: let us proceed to another topick.

When our brother gave your niece in marriage to Xenocles, would you, Nicodemus, have ſuffered a girl, whom Pyrrhus lawfully begot, to be given away as the daughter of his miſtreſs? Would you not have informed the Archon, that ſhe, being an heireſs, was groſsly injured by an adopted ſon, and deprived of her paternal eſtate? eſpecially as theſe informations alone may be made without danger to the in-

ſormant, ſince any man, who pleaſes, may ſue on behalf of an heireſs, and the complainants in ſuch cauſes are never amerced, even though the court unanimouſly decide againſt them; nor are they obliged, like other ſuitors, to depoſit money as a pledge of ſupporting their complaint; but the proſecutors may proceed without inconvenience, while the defendants, if they are convicted, ſeldom fail to ſuffer an exemplary puniſhment. If then, judges, the niece of Nicodemus had been really legitimate, would he patiently have ſeen her diſpoſed of in ſuch a manner, and not have informed the magiſtrate that an heireſs was thus inſulted by a man, who had given her away as a baſtard? No: if that, which you have now ſo audaciouſly ſworn, had been true, you would inſtantly have taken your revenge of Endius, who had injured your niece; unleſs you pretend, that you were ignorant of this fact alſo. What! did not you perceive from the very portion which Xenocles took with her, that ſhe was rejected as illegitimate? This alone ſhould have excited your reſentment, and induced you to lay an information againſt Endius, for claiming (as he did juſtly claim) an inheritance of three talents, and for giving a legitimate daughter of the deceaſed in marriage to a ſtranger, with no greater portion than ten minas.—Would not this have raiſed

his indignation? Would he not have complained to the magiſtrate? He would moſt certainly, had the marriage been true: nor can I perſuade myſelf, that either Endius, or any other adopted ſon, would have been ſo abſurdly regardleſs of the laws, as to give a legitimate daughter of his father in marriage to another, inſtead of marrying her himſelf; for he could not but perfectly know, that the children of ſuch a daughter would inherit their grandfather's eſtate; and would any man apprized of this law give his property away to another, eſpecially ſo large a fortune as theſe confederates have claimed? Can any of you imagine, that an adopted ſon would be ſo outrageouſly daring, as to betroth ſuch a daughter, without giving her ſo much as the tenth part of her own patrimony? Can you imagine, that, when this affair was in agitation, her uncle, who has ſworn that he gave her to Pyrrhus, would have indured ſuch an inſult? I cannot believe it—no: he would have contended for the ſucceſſion; he would have entered a proteſtation; he would have informed the Archon; and would have followed any courſe that might effectually have ſecured the right of his niece. Yet, I repeat it, when my brother diſpoſed of this girl as of a baſtard, Nicodemus, who calls her his niece, neither thought fit to aſſert her claim to the fortune of Pyrrhus,

nor to exhibit an information againſt the man, who had thus vilified her, nor was he at all indignant at the pitiful portion, which her huſband received, but ſhamefully acquieſced in all theſe tranſactions.

On each of the points juſt mentioned the laws are explicit; but read firſt the depoſition concerning the claim and adjudication of the inheritance, and afterwards that concerning the pretended marriage. DEPOSITIONS. Next read the law. THE LAW. To cloſe the whole, read once more the depoſition of the defendant. DEPOSITION of NICODEMUS. Now in what manner can an accuſer more clearly convict the perſon accuſed, than by adducing proofs both from the man's own conduct, and from the laws of his country? Of Nicodemus, therefore, almoſt enough has been ſaid.

Conſider now, whether the very man, who married his niece, may not afford a convincing argument of his guilt. It has been given in evidence, that Xenocles took the girl as an illegitimate daughter of Pyrrhus, and he himſelf eſtabliſhed the truth of that evidence, by his long acquieſcence; for, had he taken her from Endius as one born in lawful matrimony, he would not have neglected, when ſo many of his children by her were adult, to aſſert againſt my brother her claim to her paternal inheritance; eſ-

pecially, when he was prepared to deny that Endius had really been adopted by Pyrrhus, and excepted to all the witneſſes, who ſwore that they were preſent at the execution of the will; as their depoſition, which ſhall now be read, will convince you. DEPOSITION. By the actions, indeed, of theſe confederates, they manifeſtly acknowledged the validity of that adoption; for, had they thought it impeachable, they would not have ſubmitted to the long poſſeſſion of the laſt occupier, nor have delayed till now the claim of this woman to the fortune of Pyrrhus, who has been dead above twenty years, whereas Endius died only laſt year in the month of October, and they put in their claim on the third day after his death: now the law ordains, that whoever has a title to an eſtate muſt claim it within five years after the deceaſe of the laſt poſſeſſor; ſo that Phila had only this alternative, either to contend with Endius, while he lived, for her paternal eſtate, or, after the death of the adopted ſon, to claim the fortune of her brother by right of ſucceſſion; eſpecially if Endius, as theſe men alledge, betrothed her to Xenocles, as his legitimate ſiſter; for we all perfectly know, that it is neceſſary to make a formal claim to a fraternal inheritance, but that, when a man leaves children lawfully begotten, they immediately enter upon their patrimony

and enjoy it without litigation. Thus you and all other citizens poſſeſs your paternal fortunes without fear of controverſy; yet theſe aſſociates are bold enough to inſiſt, that an adopted ſon ought not to claim the fortune, which his father left him, while they are claiming the patrimony of Phila, whom they pretend to be the legitimate daughter of Pyrrhus: the very reverſe of which is the practice eſtabliſhed by law; for, as I before obſerved, legitimate children ought not to demand a decree for their paternal inheritance, but ſons adopted by will are bound to ſue for an adjudication of the eſtate deviſed to them; becauſe no man would controvert the right of an heir by deſcent, whereas all the relations of the deceaſed would eagerly engage in a conteſt with an heir by appointment. Leſt any ſtranger, therefore, who pleaſed, ſhould commence a ſuit for ſuch eſtates, and leſt others ſhould dare to claim them as vacant inheritances, all heirs by adoption are obliged to have their title formally allowed: none of you then can ſuppoſe, that Xenocles, if he really believed his wife to be legitimate, would have claimed her patrimony in court; but ſhe would have entered, as lawful heireſs, on the lands of her father; and, if any one had uſed violence or attempted forcibly to retain the poſſeſſion, ſhe would have ejected him, as ſhe might, from her

paternal eſtate; nor would her opponent have been expoſed to a private lawſuit only, but even to a publick information before the Archon, who might have inflicted a corporal puniſhment, or impoſed a heavy fine. I may add, that theſe uncles of Pyrrhus, if they had known that their nephew left a legitimate daughter, and that neither Endius nor any of us would marry her, would never have permitted Xenocles, who bore no relation to the deceaſed, to take a woman, who belonged to them as her next of kin: that would have been inconceivably ſtrange. The law commands, that both ſuch daughters as have been given in marriage to ſtrangers by their own fathers (yet who can determine better than a father, what may be for his daughter's advantage?) and ſuch as remain ſingle, ſhall be married to their neareſt relations, if their fathers die without leaving ſons begotten in wedlock; and many men have had their wives taken from them by force of this law: would any one of Pyrrhus's uncles then have ſuffered Xenocles to marry a daughter of their nephew, when the laws had adjudged her to one of them, and thus have made a ſtranger heir to ſo large an eſtate, inſtead of themſelves? Never believe it, judges; for no man prefers another's intereſt to his own; but if they ſhould pretend, that the adoption of Endius prevented the woman from having the

quality of an heireſs, on which account they did not demand her in marriage for one of themſelves, let them firſt be aſked, why, if they allow that Endius was adopted, they took exceptions to all the witneſſes who atteſted his adoption, and why they paſſed him over, who was laſt poſſeſſor of the lands, and now illegally and informally have claimed the eſtate for Phila as heireſs to the deceaſed? Aſk them alſo (and oppoſe theſe interrogatories to their impudence) whether any legitimate child ever thinks it proper to obtain a ſentence of the court for his own patrimony? That this girl, however, was truly an heireſs and liable to be married to her neareſt kinſman, if ſhe was not illegitimate, moſt evidently appears from the law, which expreſsly ordains, that every man may diſpoſe of his eſtate by will, as he pleaſes, unleſs he has legitimate ſons; and that, if he has daughters, he may bequeath his property, but the legatees are bound to take them in marriage; ſo that a man is allowed to deviſe his poſſeſſions together with his legitimate daughters, but without them he can neither conſtitute an heir by adoption, nor appoint a ſucceſſor by will to any part of his eſtate: if Pyrrhus, therefore, adopted Endius without providing for his marriage with his daughter, ſuch an adoption was illegal and conſequently void; but if he gave her together with

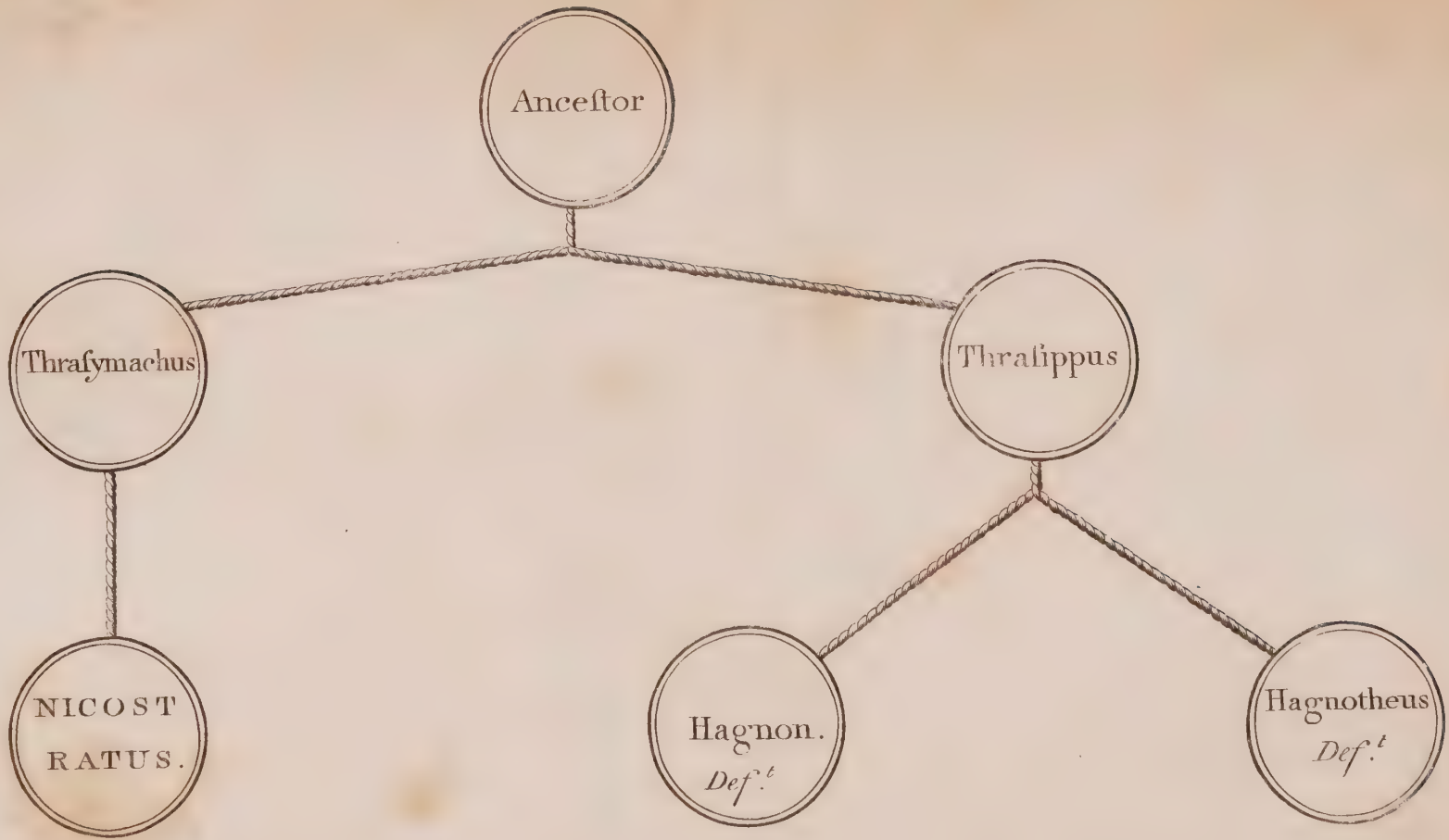
his fortune to his adopted ſon, how came it that you, the uncles of Pyrrhus, permitted Endius, without taking her, if ſhe was lawfully begotten, to procure a decree for eſtabliſhing his own title to the ſucceſſion? eſpecially if your nephew, as you gave in evidence, had requeſted you to ſuperintend the intereſts of the girl? This too, honeſt men, you will ſay, eſcaped your memory: yet, when ſhe was betrothed and given away by Endius, you, her father's uncles, ſuffered the daughter of your nephew to be thus treated as his baſtard; you, who ſwear that you were preſent, when Pyrrhus took her mother as his lawful wife, and that you were invited by him to an entertainment on the tenth day after the child's birth. Thus, when your nephew had enjoined you (for this is the worſt part of your conduct) to conſult the girl's intereſt, your mode of conſulting it was to let her be diſpoſed of as baſe born, though ſhe bore the name, as yourſelves have ſworn, of your own ſiſter. From all this, as well as from the reaſon of the thing, it is manifeſt, that theſe confederates are the moſt impudent of mortals; for with what view could my uncle, if he had a legitimate daughter, adopt my brother as his ſon? Had he any nearer kinſmen than we, whom he meaned to exclude from the right of demanding his daughter in marriage? But there neither

exiſted nor exiſts (for he had no ſons) any nearer relation to him than ourſelves; ſince he had no brothers, nor brother's ſons, and we are the children of his ſiſter. They will urge, that, had Pyrrhus choſen to adopt any of his other kinſmen, he would have given his daughter, together with his eſtate; yet why ſhould he thus openly and unneceſſarily affront any one of his relations? It was in his power, if he had really married the ſiſter of Nicodemus, to introduce his daughter by her to the men of his own ward, as born in wedlock; by which care he might have made her ſole heireſs of all his fortune, and might have directed, that one of her ſons ſhould be adopted as his own; for he well knew, that, by leaving her his heireſs, either one of us, his nephews, might have procured a decree for taking her in marriage, or, in caſe of our refuſal, one of theſe ready witneſſes, his uncles, might have married her; or, had they too declined the match, his next neareſt relation might have taken her, by a ſentence of the court, with all his property; this he would have effected by introducing her as his daughter to the ward, of which he was a member, and by not adopting my brother; but by the adoption of Endius, and the want of admitting Phila as his daughter, he not only declared her, as he ought to do, illegitimate, and deprived her of all right

to the ſucceſſion, but actually appointed my brother heir to the whole eſtate.

Now, to convince you, that our uncle neither gave a nuptial feaſt, nor thought proper to admit the girl, whom they call his legitimate daughter, to his ward, according to the ancient cuſtom, the teſtimony of thoſe, who belong to the ſame ward, ſhall be read to you—Read: and do you ſtop the water-glaſs. DEPOSITION. Read now the proofs of my brother's adoption. EVIDENCE. Can you then give credit to the teſtimony of Nicodemus, in preference to the ſuperior evidence of my uncle's own conduct? Will any man endeavour to perſuade you, that Pyrrhus really married a common harlot? You will not be perſuaded, unleſs Nicodemus inform you, as I ſaid in the beginning of my ſpeech, with what portion he betrothed his ſiſter to Pyrrhus; before what magiſtrate ſhe declared, that ſhe had left her huſband or his houſe; by whom her fortune was returned to him, after the death of my uncle; or, if he could not obtain a reſtitution of it in the courſe of twenty years, what action he brought for her alimony or for her portion againſt the occupier of the eſtate: let him alſo declare, whether he had betrothed her to any one elſe, either before or after her pretended marriage with Pyrrhus, or whether ſhe had children by any other man.

Interrogate him to theſe points, and do not forget to examine him concerning the marriage-feaſt ſuppoſed to be given to the members of his ward: this is no light argument againſt the teſtimony of Nicodemus; for, could they have prevailed with him to marry the woman, he might ſurely have been induced to give an entertainment to the men of his ward, and to preſent this girl to them as his legitimate child, who, if he had been really married, was heireſs to a fortune of three talents. He would have been obliged alſo to entertain the wives of his companions at the feſtival of Ceres, and to have borne ſuch offices in his borough on account of his wife, as are required from a man of his poſſeſſions: yet nothing of this kind will appear to have been done. The members of his ward have given their evidence: I ſhall, therefore, conclude with the teſtimony of his fellow-burgeſſes. DEPOSITIONS.


Anceſtor
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RATUS.
Hagnon.
Def.t
Hagnotheus
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SPEECH THE THIRD.

ON THE ESTATE OF NICOSTRATUS.

THE ARGUMENT.

NICOSTRATUS dying in a foreign country, Hagnon and Hagnotheus, his first cousins, contend for the right of succession to his estate against Chariades, who claims under a will. This speech is by some supposed to have been delivered by Isæus in his own person as next friend to the young men, whose cause he supported; but Reiske well observes, that no argument in favour of this opinion can be drawn conclusively from the opening of the speech; since the words *my intimate friends* might have been used by any other speaker.

SPEECH THE THIRD.

Hagnon and Hagnotheus againſt Chariades.

SINCE Hagnon and Hagnotheus, judges, are my intimate friends, and their father long ago was cloſely connected with me, it will become me to defend them with the beſt of my abilities: now as neither of them has ever been out of Attica, it will not be poſſible for them to come prepared with evidence of tranſactions in foreign parts, nor eaſy to confute their opponents, if they ſhould tell a fictitious ſtory; but what has paſſed in our own country will, in my opinion, afford a ſufficient proof, that all they, who claim the fortune of Nicoſtratus as legatees, aim only at deluding and inſulting you.

Firſt then, judges, it will be proper for you to conſider the difference of the names in our reſpective bills of complaint, and to determine which claim has been made more naturally and with more ſimplicity; for Hagnon and Hagnotheus have alledged in their bill that Nicoſtratus was the ſon of Thraſymachus, and declare that they are his couſins, both which allegations they prove by witneſſes; but Chariades and his

coadjutors in this cauſe aſſert, that one Smicrus was the father of Nicoſtratus, yet claim thoſe effects which belonged to the ſon of Thraſymachus; and, though my clients neither pretend to know the name of Smicrus, nor are related to any perſon, but maintain that Thraſymachus was the father of their couſin, yet to this eſtate alſo theſe aſſociates have ſet up a title. If each party agreed in the name, nothing more would be left for your deciſion, than ſingly, whether that Nicoſtratus, whom both ſides have in contemplation, made a will or not; but how can the ſame man be ſaid in the ſame cauſe to have two fathers? To this abſurdity has Chariades reduced himſelf; for having claimed a right of ſucceſſion to Nicoſtratus the ſon of Smicrus, he has inſtituted his ſuit againſt thoſe, who claim as next of kin to the ſon of Thraſymachus, and has tendered an iſſue, that the ſon of both theſe men was one and the ſame Nicoſtratus. Now all this is a mere trick and a preconcerted ſcheme; for they are well aware, that while the caſe remains ſimple and not involved in this perplexity, my friends will have no difficulty in proving, that Nicoſtratus never made a will; but, if they introduce the name of a different father, and contend, nevertheleſs, for the ſame eſtate, they are perfectly ſenſible, that we muſt uſe a longer argument to prove, that Nicoſtratus was

the ſon of Thraſymachus, than to convince you, that no will was made by him: beſides, had they confeſſed, that Nicoſtratus was his ſon, they could not have denied, that theſe young men were couſins to the deceaſed; but by fabricating a new father to him, they have drawn into queſtion not his will only, but his pedigree.

This contrivance, and not this alone, but all that has happened from the beginning, will convince you, that other perſons, beſides thoſe who appear in the cauſe, have brought this trouble on my clients; for, when the ſucceſſion to a fortune of two talents had been ſix times litigated, who did not ſhave his head? Who did not put on mourning cloaths? As if by a falſe ſhow of ſorrow they were ſure of ſucceeding to the eſtate. How many fictitious kinſmen and ſelf-adopted ſons laid claim to the goods of Nicoſtratus? Firſt, one Demoſthenes pretended to be his nephew; but, when he was confuted by the true heirs, he withdrew his demand. Telephus next aſſerted, that the deceaſed had made a gift to him of all his property; but he too was very ſoon reduced to ſilence: then came Amyniades, bringing to the chief magiſtrate a child not three years old, as the ſon of Nicoſtratus, who for eleven years together had been abſent from Athens. Next, Pyrrhus of

Lampra was abſurd enough to alledge, that the deceaſed had conſecrated his whole fortune to Minerva, and yet had given the ſame fortune to him. Laſtly, Cranaus and Cteſias of Beſa began with aſſerting, that they had obtained judgment for one talent in a ſuit againſt Nicoſtratus; and, when they failed in their proof, had the impudence to declare that he had been their freedman. Theſe were the men, who firſt led their forces againſt the poſſeſſions of Nicoſtratus: Chariades was then at reſt; but afterwards he both ſet up a title for himſelf, and even produced his own child by a harlot, as the ſon of the deceaſed, hoping either to be maſter of the eſtate, or to procure for his baſtard the freedom of the city; till perceiving, that he ſhould be unable to prove him legitimate, he diſcontinued the claim of the infant, and has put in iſſue his own right under a will.

It were much to be wiſhed, judges, that every claimant of an eſtate by gift or teſtament, who fails in proving his title, ſhould not pay the ordinary coſts of the ſuit, but be amerced for the publick benefit to the full amount of the fortune which he falſely claimed; for then, neither would the laws be deſpiſed, nor families inſulted by theſe impoſtors, nor fictions invented about the dead: but, ſince all ſtrangers who pleaſe may at no great expence diſpute the right of

ſucceſſion to any eſtate whatever, it behoves you to weigh the pretenſions of ſuch men with a ſcrupulous exactneſs, and to let no exertion of your faculties be wanting in ſuch a cauſe. To me, indeed, it ſeems that in ſuits concerning wills, and in them only, greater ſtreſs ſhould be laid on circumſtantial proof than on the poſitive aſſertion of witneſſes; for, when other inſtruments are litigated, it is not always difficult to prove a witneſs perjured, when he ſwears in the lifetime and even in the preſence, as it often happens, of the ſuppoſed party to the deed; but when the validity of a will is in diſpute, how can it be known that falſe evidence is given, unleſs there be palpable contradictions in it, when the teſtator is no more, his family are uninformed of the tranſaction, and the mode of proof is by no means clear or convincing? Let me add, judges, that the generality of teſtators ſay nothing to the witneſſes concerning what they have bequeathed, but call them only to atteſt the ſimple execution of the will: now it frequently happens, that the inſtrument is altered, and a forged will ſubſtituted for the real one; while the witneſſes are ignorant whether that produced in the ſuit be the ſame with that which they atteſted. Since then even they, who were confeſſedly preſent, are liable to be deceived, how much more readily will they at-

tempt to impoſe upon you, who know nothing of what paſſed? But the law, judges, intends, that a will ſhall be valid, not merely if it be executed, but if the teſtator be of ſound memory: you muſt firſt, therefore, conſider, whether a will was made at all, and next whether the maker of it had his ſenſes at the time; now, ſince we deny, that any ſuch inſtrument exiſted, how can you enquire concerning the ſanity of the teſtator, before you are convinced that he made his teſtament? Obſerve therefore the difficulty of diſcovering, whether the claimants under a will have truth on their ſide: but, as to thoſe who claim by right of ſucceſſion, in the firſt place no witneſſes need be called to ſubſtantiate that right, ſince all agree, that the poſſeſſions of the dead regularly devolve to their next of kin: beſides, not only the laws concerning conſanguinity, but alſo thoſe concerning the alienation of eſtates, are favourable to kinſmen; for they ſuffer no man to diſpoſe of his effects, who has loſt his reaſon either from age or ſickneſs, or any of thoſe infirmities, which, as you know, are incident to nature; but the neareſt relation of an inteſtate, whatever might have been the ſtate of his faculties, has an undiſputed title to his property. Add to this, that you muſt eſtabliſh wills on the credit of witneſſes, by whom you are liable to be deceived

(for if none were to ſwear falſely, there would be no proſecutions for perjury), whilſt in the other caſe you confide in none but yourſelves; for the neareſt relations ſucceed to eſtates by laws, which yourſelves have enacted.

To all this likewiſe we may add, that, if thoſe who now claim under the will had been undeniably friends to Nicoſtratus, even that would not be concluſive in their favour; but there would then have been a probable ground for ſuppoſing the teſtament to be genuine; ſince perſons, who have no affection for their kinſmen, have ſometimes preferred to their neareſt relations by blood thoſe who were related to them only by friendſhip: but now we have fully evinced, that theſe claimants were neither friends nor companions of the ſuppoſed teſtator, nor even of the ſame ſtation with him in the army abroad.

Conſider too another fact, which moſt clearly proves the impudence of Chariades; for muſt he not be ſhamefully impudent, who neither carried out the body, nor collected the bones, after it was burned, of one who had left him a large eſtate; but ſuffered all this to be done by perſons wholly unconnected with him; and who, though he performed none of theſe holy rites enjoined by the laws, has the boldneſs to claim the poſſeſſions of the deceaſed; and,

though he neglected his duty, has not omitted even to lay hands on the goods of Nicoſtratus? Nor will he himſelf deny the greateſt part of theſe charges: he will invent, no doubt, ſome fine pretences and weighty reaſons for his conduct; but, what juſt excuſe remains for a man, who plainly avows his offence?

By this time, judges, you muſt be perfectly ſenſible, that theſe men have no legal right to the fortune of Nicoſtratus, but wiſh to baffle you, and to deprive his near relations of that ſucceſſion, which the laws have given them: nor has Chariades alone acted thus, but many other falſe claimants have ariſen; and, indeed, when a man dies in a foreign country, numbers often claim his fortune, who were ſtrangers even to his perſon; for they think that, if they ſucceed, they ſhall enjoy the property of others, and ſhall not, if they fail of ſucceſs, incur a conſiderable loſs. In theſe caſes enow may be found, who will forſwear themſelves, and ſuch evidence is in its nature very obſcure; in a word, there is a vaſt difference between the claims of the legatee and the heir of the deceaſed: you will firſt, therefore, enquire, judges, whether a will actually exiſts; for of this both law and juſtice require you to be certain; and now, ſince you have no perſonal knowledge of the tranſaction, and ſince the witneſſes to the

pretended will were not friends to Nicoſtratus, but ſtrongly in the intereſt of Chariades, who demands what he has no right to claim, what can be more juſt than to give the goods of a couſin to his couſins, whoſe effects, had he ſurvived them, would have come to him, as their kinſmen in the ſame degree?

Our adverſaries will perhaps aſſert, that Hagnon and Hagnotheus are not the couſins of Nicoſtratus, ſince the aſſociates are labouring to ſupport a man who claims as legatee. Why do they not rather lay claim to the eſtate themſelves, as of kin to the deceaſed? Are they ſo ſilly as to relinquiſh ſuch poſſeſſions for the ſake of eſtabliſhing a will, when by their own account it will be more advantageous for them, that the fortune of Nicoſtratus ſhould be decreed to my clients than to Chariades? If my friends, who claim as kinſmen, take poſſeſſion of the eſtate, it will at any future time be competent to the ſupporters of our antagoniſt to prove, that they are more nearly related to Nicoſtratus, and that he was the ſon of Smicrus, not of Thraſymachus; but, ſhould Chariades gain his cauſe, no relation will ever be permitted to diſturb him; for what can the kindred of a man alledge againſt him who claimed under a will, and for whom judgment has been given?

Whatever then each of you would think juſt,

were the cauſe your own, let that be your determination in the caſe of theſe youths: they have produced witneſſes before you, who have proved, firſt, that they are the couſins of Nicoſtratus, as children of his father's brother; and that no diſagreement ever ſubſiſted between them; next, that they ſupplied the charges of his funeral; that Chariades had no intimacy with him either here or in the army, and that the connection, on which he relies, is wholly fictitious. Independently too of theſe proofs, it will be right for you, judges, to conſider and weigh the qualities of the reſpective claimants. Thraſippus, the father of Hagnon and Hagnotheus, had often ſerved your public offices, contributed to your expences, and been in all reſpects a virtuous citizen; nor have his ſons themſelves ever departed from their country except by your command; nor, while they ſtayed at home, have they been uſeleſs to the city; but they exert themſelves in their military ſtation, bring their contributions with alacrity, diſcharge every other part of their duty with faithfulneſs, and ſet an example, as all Athens knows, of decency and moderation; ſo that they were far worthier than Chariades to receive benefit from a will of Nicoſtratus; for that fellow, ſoon after he came hither, was convicted of larceny, having been caught in the very act,

and committed by the magiſtrates to priſon (whence he was afterwards releaſed) together with ſome other felons, whom you publickly ſentenced to an ignominious death: afterwards being accuſed, before the council, of fraudulent practices, he made default, and, having fled from juſtice, was abſent from this city ſeventeen years, and continued abroad till the death of Nicoſtratus; nor has he at any time fought in your defence, or contributed to your ſupplies, unleſs perhaps he has given a trifle ſince the commencement of this ſuit; but no other expence has he at any time ſuſtained for your advantage. With this diſpoſition, with this character, is he not contented with eluding the puniſhment due to his crimes, but muſt he add to them ſo audacious a claim of what belongs to others? Were my clients, indeed, malevolent and buſy informers, or like too many of their fellow-citizens, he would not, I imagine, be now contending for the property of Nicoſtratus, but would be trembling at the conſequences of a criminal proſecution. Let ſome other perſon, judges, draw the publick vengeance on his head: be it your care to protect theſe injured young men; and favour not thoſe, who baſely graſp at the poſſeſſions of others, before the neareſt relations, and, let me add, in ſome meaſure, the benefactors of the deceaſed; but, call-

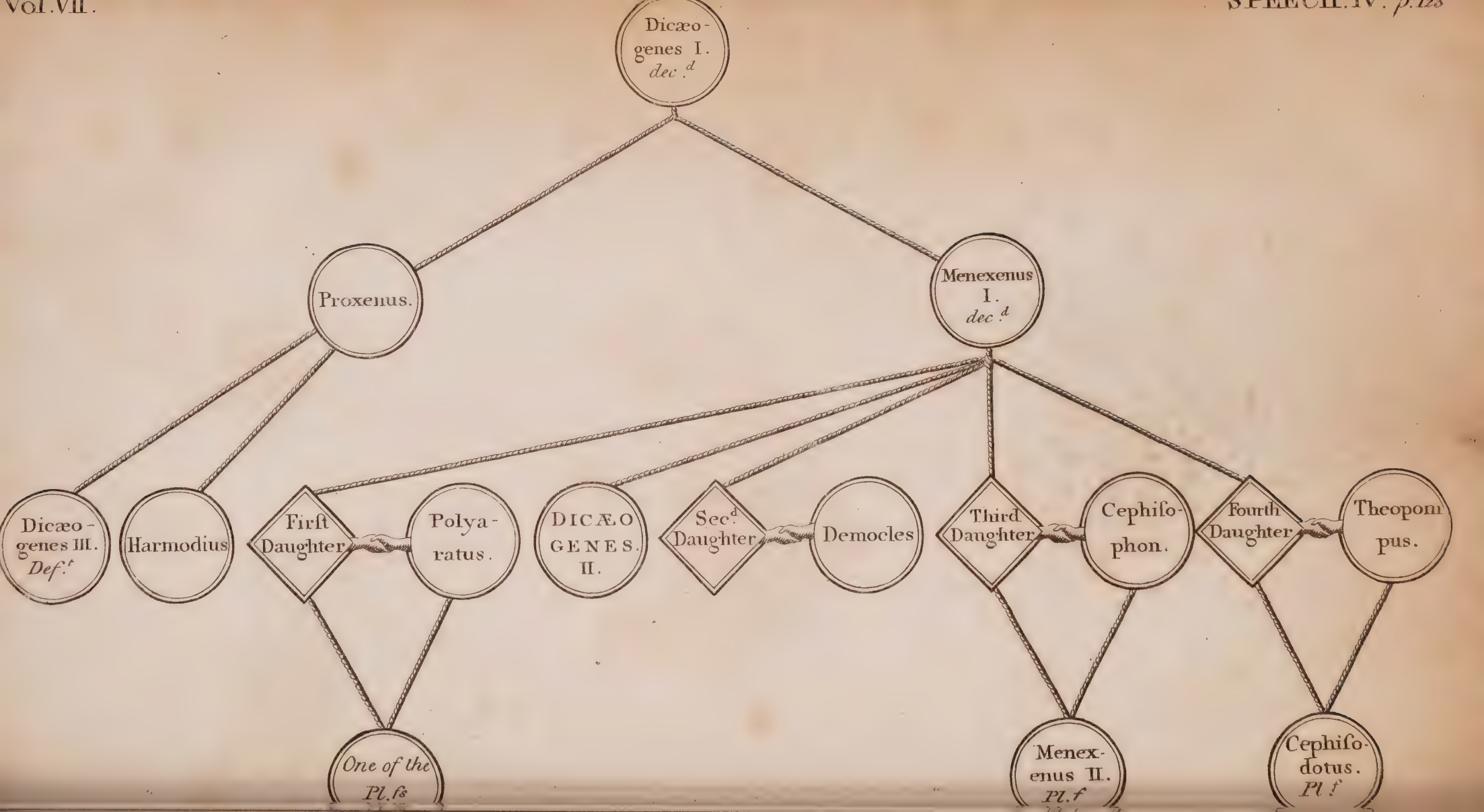
ing to mind both the laws and your oaths, and reflecting on the evidence which we have laid before you, pronounce a ſentence conſiſtent with juſtice and truth.

SPEECH THE FOURTH.

ON THE ESTATE OF DICÆOGENES.

THE ARGUMENT.

DICÆOGENES, whose estate is in dispute, had four sisters, all of whom were married and had issue. When he died without children, his uncle Proxenus produced a will, by which the deceased appeared to have left his cousin Dicæogenes, one of the defendants, a third part of his effects, and the legacy was accordingly delivered; but the cousin, not satisfied with a share, insisted that he had a right to the whole; and, having set up another will in his favour, obtained a decree by surprize, and took the remaining two thirds from the sisters of the deceased. Afterwards the sons of those sisters, being prepared with their evidence, disputed the validity of the second will, and proved it to have been forged; upon which Dicæogenes undertook to restore the two thirds without diminution, and one Leochares was his surety: but on their refusal to perform their promise, the nephews of the elder Dicæogenes commenced a suit against the principal and the surety for a specifick performance of their agreement.


Dicæo-genes I. dec.d
Proxenus.
Menexenus I. dec.d
Dicæo-genes III. Def.t
Harmodius
First Daughter
Polya-ratus.
DICÆO GENES. II.
Secd Daughter
Democles
Third Daughter
Cephiso-phon.
Fourth Daughter
Theopom pus.
One of the Pl.fs
Menex-enus II. Pl.f
Cephiso-dotus. Pl.f

SPEECH THE FOURTH.

Menexenus and Others againſt Dicæogenes and Leochares.

WE had imagined, judges, that all agreements made in court concerning this diſpute would have been ſpecifically performed; for, when Dicæogenes diſclaimed the remaining two thirds of this eſtate, and was bound, together with his ſurety, to reſtore them without any controverſy, on the faith of this aſſurance we gave a releaſe of our demands: but now, ſince he refuſes to perform his engagement, we bring our complaint, conformably to the oath which we have taken, both againſt him and his ſurety Leochares. THE OATH. That we ſwore truly, both Cephiſodotus, who ſtands near me, perfectly knows, and the evidence, which we ſhall adduce, will clearly demonſtrate. Read the depoſitions. EVIDENCE.

You have heard the teſtimony of theſe witneſſes; and I am perſuaded, that even Leochares himſelf will not venture to aſſert that they are perjured; but he will have recourſe perhaps to this defence, that Dicæogenes has fully performed his agreement, and that his own office

of ſurety is completely ſatisfied: if he alledge this, he will ſpeak untruly, and will eaſily be confuted; for the clerk ſhall read to you a ſchedule of all the effects, which Dicæogenes, the ſon of Menexenus, left behind him, together with an inventory of thoſe which the defendant unjuſtly took; and, if he affirms, that our uncle neither had them in his life-time, nor left them to us at his death, let him prove his aſſertion; or, if he inſiſts, that the goods were indeed ours, but that we had them reſtored to us, let him call a ſingle witneſs to that fact; as we have produced evidence on our part, that Dicæogenes promiſed to give us back the two thirds of what the ſon of Menexenus poſſeſſed, and that Leochares undertook to ſee him perform his promiſe. This is the ground of our action, and this we have ſworn to be true. Let the oath again be read. THE OATH.

Now, judges, if the defendants intended only to clear themſelves of this charge, what has already been ſaid would be ſufficient to enſure my ſucceſs; but, ſince they are prepared to enter once more into the merits of the queſtion concerning the inheritance, I am deſirous to inform you on our ſide of all the tranſactions in our family; that, being apprized of the truth, and not deluded by their artifices, you may give a ſentence agreeable to reaſon and juſtice.

Menexenus our grandfather had one ſon named Dicæogenes, and four daughters, of whom Polyaratus my father married one; another was taken by Democles of Phrearrhi, a third by Cephiſophon of Pæania; and the fourth was eſpouſed by Theopompus the father of Cephiſodotus. Our uncle Dicæogenes, having ſailed to Cnidos in the Parhalian galley, was ſlain in a ſea fight; and, as he left no children, Proxenus the defendant's father brought a will to our parents, in which his ſon was adopted by the deceaſed, and appointed heir to a third part of his fortune; this part our parents, unable at that time to conteſt the validity of the will, permitted him to take; and each of the daughters of Menexenus, as we ſhall prove by the teſtimony of perſons then preſent, had a decree for her ſhare of the reſidue. When they had thus divided the inheritance, and had bound themſelves by oath to acquieſce in the diviſion, each perſon poſſeſſed his allotment for twelve years; in which time, though the courts were frequently open for the adminiſtration of juſtice, not one of theſe men thought of alledging any unfairneſs in the tranſaction; until, when the ſtate was afflicted with troubles and ſeditions, this Dicæogenes was perſuaded by Melas the Egyptian, to whom he uſed to ſubmit on other occaſions, to demand from us all our un-

cle's fortune, and to aſſert that he was appointed heir to the whole. When he began his litigation, we thought he was deprived of his ſenſes; never imagining that the ſame man, who at one time claimed as heir to a third part, and at another time as heir to the whole, could gain any credit before this tribunal; but when we came into court, although we urged more arguments than our adverſary, and ſpoke with juſtice on our ſide, yet we loſt our cauſe; not through any fault of the jury, but through the villainy of Melas and his aſſociates, who, taking advantage of the publick diſorders, aſſumed a power of ſeizing poſſeſſions, to which they had no right, by ſwearing falſely for each other: by ſuch men therefore were the jury deceived; and we, overcome by this abominable iniquity, were ſtripped of our effects; for my father died not long after the trial, and before he could proſecute, as he intended, the perjured witneſſes of his antagoniſt. On the very day, when Dicæogenes had thus infamouſly prevailed againſt us, he ejected the daughter of Cephiſophon, the niece of him who left the eſtate, from the portion allotted to her; took from the wife of Democles what her brother had given her as coheireſs; and deprived both the mother of Cephiſodotus and the unfortunate youth himſelf of their whole fortune: of all theſe he was at the ſame time guardian

and ſpoiler, next of kin, and cruelleſt enemy; nor did the relation, which he bore them, excite in the leaſt degree his compaſſion; but the unhappy orphans, deſerted and indigent, became deſtitute even of daily neceſſaries. Such was the guardianſhip of Dicæogenes their nearеſt kinſman! who gave to their avowed foes what their father Theopompus had left them, illegally poſſeſſed himſelf of the property which they had from their maternal uncle and their grandfather; and (what was the moſt open act of cruelty) having purchaſed the houſe of their father and demoliſhed it, he dug up the ground on which it ſtood, and made that handſome garden for his own houſe in the City. Still further; although he receives an annual rent of eighty minas from the eſtate of our uncle, yet ſuch are his inſolence and profligacy, that he ſent my couſin Cephiſodotus to Corinth as a ſervile attendant on his brother Harmodius; and adds to his other injuries this cruel reproach, that he wears ragged clothes and coarſe buſkins: but is not this unjuſt, ſince it was his own violence which reduced the boy to poverty?

On this point enough has been ſaid: I now return to the narration from which I have thus digreſſed. Menexenus then, the ſon of Cephiſophon, and couſin both to this young man and

to me, having a claim to an equal portion of the inheritance, began a profecution againſt thoſe who had perjured themſelves in the former cauſe, and convicted Lycon, whom he firſt brought to juſtice, of having falſely ſworn that our uncle appointed this Dicæogenes heir to his whole eſtate: when, therefore, this pretended heir was diſappointed in his hopes of deluding you, he perſuaded Menexenus, who was acting both for our intereſt and his own, to make a compromiſe, which, though I bluſh to tell it, his baſeneſs compells me to diſcloſe. What was their agreement? That Menexenus ſhould receive a competent ſhare of the effects on condition of his betraying us, and of releaſing the other falſe witneſſes, whom he had not yet convicted: thus, injured by our enemies and by our friends, we remained with ſilent indignation; but you ſhall hear the whole tranſaction from the mouth of witneſſes. EVIDENCE. Nor did Menexenus loſe the reward of his perfidy; for, when he had diſmiſſed the perſons accuſed, and given up our cauſe, he could not recover the promiſed bribe from his ſeducer, whoſe deceit he ſo highly reſented, that he came over again to our ſide. We therefore, juſtly thinking that Dicæogenes had no right to any part of the inheritance, ſince his principal witneſs had been actually convicted of perjury, claimed the whole

eſtate as next of kin to the deceaſed: nor will it be difficult to prove the juſtice of our claim; for, ſince two wills had been produced, one of an ancient date, and the other more recent; ſince by the firſt, which Proxenus brought with him, our uncle made the defendant heir to a third part of his fortune, which will Dicæogenes himſelf prevailed upon the jury to ſet aſide; and ſince the ſecond, under which he claims the whole, had been proved invalid by the conviction of the perjured witneſſes, who ſwore to its validity: ſince, I ſay, both wills had been ſhown to be forged, and no other teſtament exiſted, it was impoſſible for any man to claim the property as heir by appointment, but the ſiſters of the deceaſed, whoſe daughters we married, were entitled to it as heirs by birth.

Theſe reaſons induced us to ſue for the whole as next of kin, and each of us claimed a ſhare; but when we were on the point of taking the uſual oaths on both ſides, this Leochares put in a proteſtation, that the inheritance was not controvertible: to this proteſtation we took exceptions, and having begun to proſecute Leochares for perjury, we diſcontinued the former cauſe. After we had appeared in court, and urged the ſame arguments on which we have now inſiſted, and after Leochares had been very

loquacious in making his defence, the judges were of opinion that he was perjured; and as ſoon as this appeared by the number of pellets, which were taken out of the urns, it is needleſs to inform you what entreaties he uſed both to the court and to us, or what an advantage we might then have taken: but attend to the agreement which we made. Upon our conſenting that the Archon ſhould mix the pellets together without counting them, Dicæogenes undertook to ſurrender two thirds of the inheritance, and to reſign them without any diſpute to the ſiſters of the deceaſed; and for the full performance of this undertaking, Leochares was his ſurety, together with Mneſiptolemus the Plotian; all which my witneſſes will prove. EVIDENCE. Although we had been thus injured by Leochares, and had it in our power, after he was convicted of perjury, to mark him with infamy, yet we conſented that judgement ſhould not be given, and were willing to drop the proſecution upon condition of recovering our inheritance: but after all this mildneſs and forbearance, we were deceived, judges, by theſe faithleſs men; for neither has Dicæogenes reſtored to us the two thirds of his eſtate, conformably to his agreement in court; nor will Leochares confeſs that he was bound for the performance of that agreement. Now, if theſe promiſes had

not been made before five hundred jurymen and a croud of hearers, one cannot tell how far this denial might have availed him; but, to ſhow how falſely they ſpeak, I will call ſome witneſſes who were preſent both when Dicæogenes diſclaimed two thirds of the ſucceſſion, and undertook to reſtore them undiſputed to the ſiſters of our uncle, and when Leochares engaged, that he ſhould punctually perform what he had undertaken: to confirm his evidence, judges, we intreat you, if any of you were then in court, to recollect what paſſed, and, if our allegations are true, to give us the benefit of your teſtimony; for, if Dicæogenes ſpeaks the truth, what advantage did we reap from gaining the cauſe, or what inconvenience did he ſuſtain by loſing it? If, as he aſſerts, he only diſclaimed the two thirds, without agreeing to reſtore them unencumbered, what has he loſt by relinquiſhing his preſent claim to an eſtate, the value of which he has received? For he was not in poſſeſſion of the two third parts, even before we ſucceeded in our ſuit, but had either ſold or mortgaged them; it was his duty, however, to return the money to the purchaſers, and to give us back our ſhare of the land; ſince it was with a view to this, that we, not relying ſingly upon his own engagement, inſiſted upon his finding a ſurety. Yet, except two ſmall

houſes without the walls of the city, and about ſixty acres of land in the Plain, we have received no part of our inheritance; nor did we care to eject the purchaſers of the reſt, leſt we ſhould involve ourſelves in litigation; for when, by the advice of Dicæogenes, and on his promiſe not to oppoſe our title, we turned Micio out of a bath, which he had purchaſed, he brought an action againſt us and recovered forty minas. This loſs, judges, we incurred through the perfidy of Dicæogenes; for we, not imagining that he would recede from an engagement ſo ſolemnly made, aſſured the court, that we would ſuffer any evil, if Dicæogenes ſhould warrant the bath to Micio; not that we depended on his own word, but we could not conceive, that he would betray the ſureties, who had undertaken for him; yet this very man, who diſavowed all pretenſions to theſe two thirds, and even now admits his diſavowal, had the baſeneſs, when he was vouched by Micio, to acknowledge his warranty; whilſt I, unhappy man, who had not recovered a particle of my ſhare, was condemned to pay forty minas for having ouſted a fair purchaſer, and left the court oppreſſed by the inſults of this Dicæogenes. To prove the tranſaction, I ſhall call my witneſſes. EVIDENCE.

Thus have we been injured, judges, by this

man; whilſt Leochares, who was bound for him, and has been the cauſe of all our misfortunes, is confident enough to deny what has been proved againſt him; becauſe his undertaking was not entered in the regiſter of the court: now, judges, as we were then in great haſte, we had time to enter part only of what had been agreed on, and took care to provide faithful witneſſes of all the reſt; but theſe men have a convenient ſubterfuge: what is advantageous to them, they allow to be valid, although it be not written, but deny the validity of what may be prejudicial to their intereſts, unleſs it be in writing; nor am I ſurpriſed, that they refuſe to perform their verbal promiſes, ſince they will not even act conformably to their written agreements. That we ſpeak truly, an undeniable proof ſhall be produced: Dicæogenes gave my ſiſter in marriage with a portion of forty minas to Protarchides of Potamos; but, inſtead of paying her fortune in money, he gave her huſband a houſe which belonged to him in Ceramicus; now ſhe had the ſame right with my mother to a ſhare of this eſtate; when Dicæogenes, therefore, had reſigned to the women two thirds of the inheritance, Leochares told Protarchides in what manner he had become a ſurety, and promiſed in writing to give him his wife's allotment, if he would ſurrender to

him the houſe which he had taken inſtead of the portion: Protarchides, whoſe evidence you ſhall now hear, conſented; but Leochares took poſſeſſion of his houſe, and never gave him any part of the allotment. EVIDENCE.

As to the repairs of the bath, and the expenſes of building, Dicæogenes has already ſaid, and will probably ſay again, that we have not reimburſed him, according to our engagement, for the ſum which he expended on that account; for which reaſon he cannot ſatisfy his creditors, nor give us the ſhares to which we are entitled. To anſwer this, I muſt inform you, that, when we compelled him in open court to diſclaim this part of the inheritance, we permitted him, by the advice of the jury, to retain the profits of the eſtate, which he had enjoyed ſo long, by way of compenſation, for his expenſes in repairs, and for his publick charges; and ſome time after, not by compulſion, but of our own free will, we gave him a houſe in the city, which we ſeparated from our own eſtate, and added to his third part. This he had as an additional recompenſe for the materials which he had bought for his building; and he ſold the houſe to Philonicus for fifty minas: nor did we make him this preſent as a reward of his probity, but as a proof that our own relations, how diſhoneſt ſoever, are not undervalued by us for

the ſake of lucre; and even before, when it was in our power to take ample revenge of him by depriving him of all his poſſeſſions, we would not act with the rigour of juſtice, but were contented with obtaining a decree for part of our own property; whilſt he, when he had procured an unjuſt advantage over us, plundered us with all poſſible violence, and now ſtrives to ruin us, as if we were not his kinſmen, but his inveterate foes.

We will now produce a ſtriking inſtance of our candour, and of his knavery. When, in the month of December, judges, the proſecution againſt Leochares was carried on with firmneſs, both he and Dicæogenes entreated me to poſtpone the trial, and refer all matters in diſpute to arbitration; to which propoſal, as if we had ſuſtained only a ſlight injury, we conſented; and four arbitrators were choſen, two by us, and as many by them: we then ſwore, in their preſence, that we would abide by their award; and they told us, that they would ſettle our controverſy, if poſſible, without being ſworn; but that, if they found it impoſſible to agree, they would ſeverally declare upon oath what they thought the merits of the caſe. After they had interrogated us for a long time, and enquired minutely into the whole tranſaction, Diotimus and Melanopus, the two arbitra-

tors, whom we had brought, expreſſed their readineſs to make their award, either upon oath or otherwiſe, according to their opinion of the truth from the teſtimony of both parties; but the other two, whom Leochares had choſen, refuſed to join in any award at all; though one of them, Diopithes, was a kinſman of Leochares, and an enemy to me on account of ſome former diſputes, and his companion Demaratus was a brother of that Mneſiptolemus, whom I mentioned before, as one of the ſureties for Dicæogenes: theſe two declined giving any opinion, although they had obliged us to ſwear that we would ſubmit to their deciſion.

EVIDENCE.

It is abominable then, that Leochares ſhould requeſt you to pronounce a ſentence in his favour, which his own relation Diopithes refuſed to pronounce; and how can you, judges, with propriety decree for this man, when even his friends have virtually decreed againſt him? For all theſe reaſons I intreat you, unleſs you think my requeſt inconſiſtent with juſtice, to decide this cauſe againſt Leochares.

As for Dicæogenes, he deſerves neither your compaſſion as an indigent and unfortunate man, nor your indulgence as a benefactor in any degree to the ſtate: I ſhall convince you, judges, that neither of theſe characters belongs to him;

ſhall prove him to be both a wealthy and a profligate citizen, and ſhall produce inſtances of his baſe conduct towards his friends, his kinſmen, and the publick. Firſt, though he took from us an eſtate, from which he annually received eighty minas, and though he enjoyed the profits of it for ten years, yet he is neither in poſſeſſion of the money, nor will declare in what manner he has employed it. It is alſo worthy of your conſideration, that, when he preſided over the games of his tribe at the feaſt of Bacchus, he obtained only the fourth prize, and was the laſt of all in the theatrical exhibitions and the Pyrrhick dances: theſe were the only offices that he has ſerved, and theſe too by compulſion; and ſee how liberally he behaved with ſo large an income! Let me add, that, in a time of the greateſt publick calamity, when ſo many citizens furniſhed veſſels of war, he would not equip a ſingle galley at his own expenſe, nor even joined with another; whilſt others, whoſe entire fortune was not equal to his yearly rents, bore that expenſive office with alacrity: he ought to have remembered, that it was not his father who gave him his eſtate; but you, judges, who eſtabliſhed it by your decree; ſo that, even if he had not been a citizen, gratitude ſhould have prompted him to conſult the welfare of the city.

Again; when contributions were continually brought by all who loved their country, to ſupport the war and provide for the ſafety of the ſtate, nothing came from Dicæogenes: when Lechæum indeed was taken, and when he was preſſed by others to contribute, he promiſed publickly, that he would give three minas, a ſum leſs than that which Cleonymus the Cretan voluntarily offered: yet even this promiſe he never performed; but his name was hung up on the ſtatues of the *Eponymi*, with an inſcription, aſſerting, to his eternal diſhonour, that he had not paid the contribution, which he promiſed in publick, for his country's ſervice. Who now can wonder, judges, that he deceived me, a private individual, when he ſo notoriouſly deluded you all in your common aſſembly? Of this tranſaction you ſhall now hear the proofs.

EVIDENCE.

Such and ſo ſplendid have been the ſervices which Dicæogenes, poſſeſſed of ſo large a fortune, has performed for the city! You perceive, too, in what manner he conducts himſelf towards his relations; ſome of whom he has deprived, as far as he was able, of their property; others he has baſely neglected, and forced, through the want of mere neceſſaries, to enter into the ſervice of ſome foreign power. All Athens ſaw his mother ſitting in the temple of

Illithyia, and heard her accuſe him of a crime, which I bluſh to relate, but which he bluſhed not to commit. As to his friends, he has now incurred the violent hatred of Melas the Egyptian, who had been fond of him from his early youth, by refuſing to pay him a ſum of money, which he had borrowed: his other companions he has either defrauded of ſums, which they lent him, or has failed to perform his promiſe of giving them part of his plunder, if he ſucceeded in his cauſe.

Yet our anceſtors, judges, who firſt acquired this eſtate, and left it to their deſcendants, conducted all the publick games, contributed liberally towards the expenſe of the war, and continually had the command of gallies, which they equipped: of theſe noble acts the preſents, with which they were able, from what remained of their fortune after their neceſſary charges, to decorate the temples, are no leſs undeniable proofs, than they are laſting monuments of their virtue; for they dedicated to Bacchus the tripods, which they won by their magnificence in their games; they gave new ornaments to the temple of the Pythian Apollo; and adorned the ſhrine of the goddeſs in the citadel, where they offered the firſt fruits of their eſtate, with a great number, if we conſider that they were only private men, of ſtatues both in braſs and ſtone.

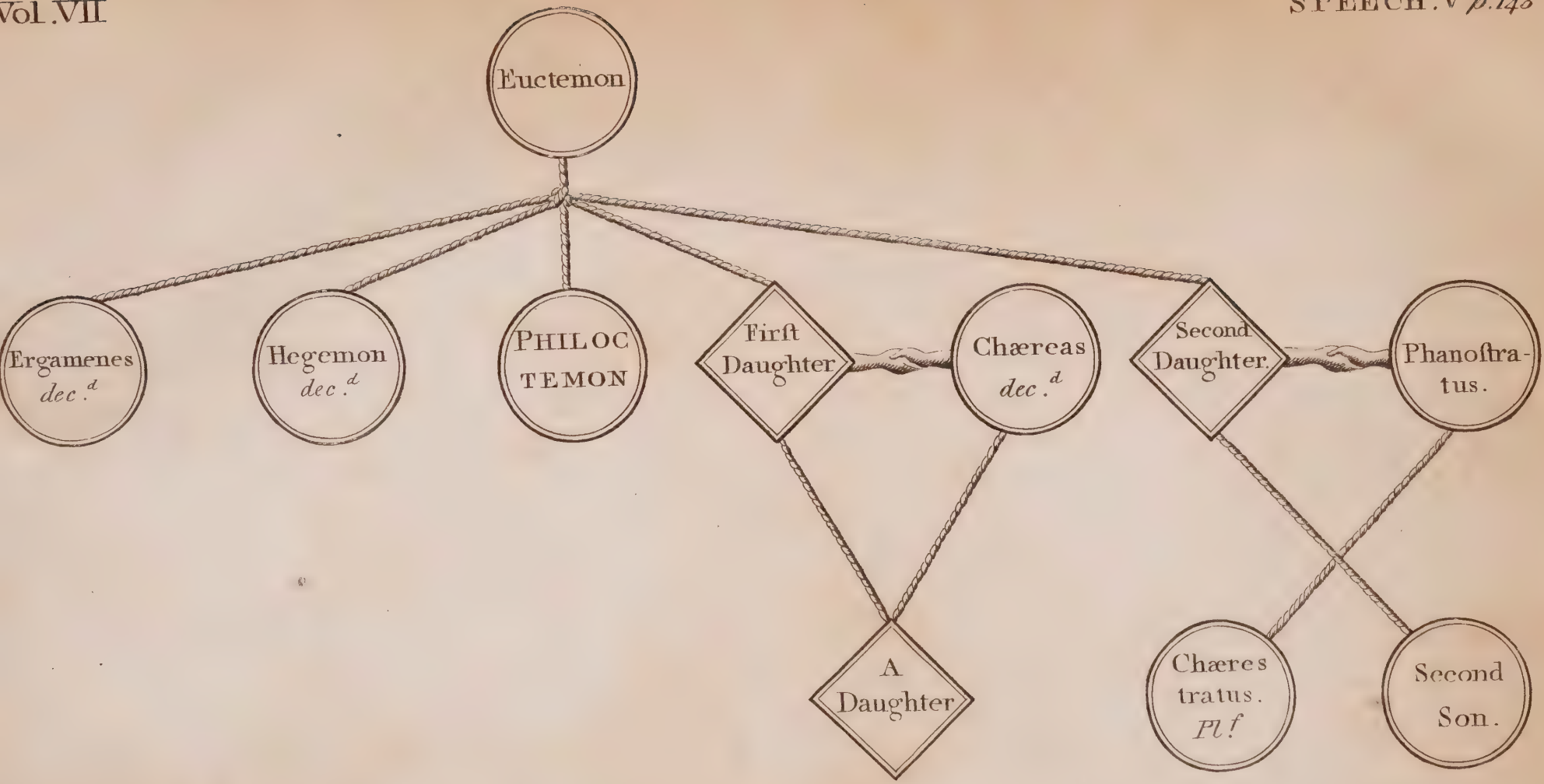
They died fighting reſolutely in defence of their country; for Dicæogenes, the father of my grandfather Menexenus, periſhed in the battle of Eleuſis, where he had a command; his ſon Menexenus fell at the head of the Olyſian legion in Spartolus; and his ſon, my uncle, loſt his life at Cnidos, where he commanded the Parhalian galley.

His eſtate, O Dicæogenes, thou haſt unjuſtly ſeized, and ſhamefully waſted; and having converted it into money, haſt the aſſurance to complain of poverty. How haſt thou ſpent that money? Not for the uſe of the ſtate, or of your friends; ſince it is apparent, that no part of it has been employed for thoſe purpoſes; not in breeding fine horſes; for thou never waſt in poſſeſſion of a horſe worth more than three minas: not in chariots; for, with ſo many farms and ſo great a fortune, thou never hadſt a ſingle carriage even drawn by mules: nor haſt thou redeemed any citizen from captivity; nor haſt thou conveyed to the citadel thoſe ſtatues, which Menexenus had ordered to be made for the price of three talents, but was prevented by his death from conſecrating in the temple; and, through thy avarice, they lie to this day in the ſhop of the ſtatuary: thus haſt thou preſumed to claim an eſtate, to which thou hadſt no colour of right, and haſt not reſtored to the gods

the ſtatues, which were truly their own. On what ground, Dicæogenes, canſt thou aſk the jury to give a ſentence in thy favour? Is it becauſe thou haſt frequently ſerved the publick offices; expended large ſums of money to make the city more reſpectable, and greatly benefited the ſtate by contributing bountifully towards ſupporting the war? Nothing of this ſort can be alledged with truth. Is it becauſe thou art a valiant ſoldier? But thou never once couldſt be perſuaded to ſerve in ſo violent and ſo formidable a war, in which even the Olynthians and the iſlanders loſe their lives with eagerneſs, ſince they fight for this country; while thou, who art a citizen, wouldſt never take arms for the city.

Perhaps, the dignity of thy anceſtors, who ſlew the tyrant, imboldens thee to triumph over us: as for them, indeed, I honour and applaud them, but cannot think that a ſpark of their virtue animates thy boſom; for thou haſt preferred the plunder of our inheritance to the glory of being their deſcendant, and wouldſt rather be called the ſon of Dicæogenes than of Harmodius; not regarding the right of being entertained in the Prytaneum, nor ſetting any value on the precedence and immunities which the poſterity of thoſe heroes enjoy: yet it was

not for noble birth, that Harmonius and Ariſtogiton were ſo tranſcendently honoured, but for their valour and probity; of which thou, Dicæogenes, haſt not the ſmalleſt ſhare.


Euctemon
Ergamenes
dec.d
Hegemon
dec.d
PHILOC
TEMON
First
Daughter
Chæreas
dec.d
Second
Daughter.
Phanostra-
tus.
A
Daughter
Chæres
tratus.
Pl f
Second
Son.

SPEECH THE FIFTH.

ON THE ESTATE OF PHILOCTEMON.

THE ARGUMENT.

PHILOCTEMON, one of Euctemon's sons, having adopted Chærestratus, the son of Phanostratus and his younger sister, deposited his will with Chæreas, his elder sister's husband, and died in the lifetime of his father. When he also was dead, Chærestratus claimed the inheritance according to law; and, when one Androcles protested that the estate could not be the subject of litigation, because Euctemon had left two legitimate sons, Antidorus and another, the friends of Chærestratus excepted to the protestation, averring that both Antidorus and his brother were illegitimate, and relying upon the law of Solon, which expressly declared, that bastards, whether male or female, should not inherit: the clients of Isæus, therefore, maintain the affirmative in two issues; in one, that Philoctemon adopted Chærestratus; in another, that Antidorus was a bastard.

SPEECH THE FIFTH.

Chæreſtratus againſt Androcles.

THAT I am intimately connected, judges, with Phanoſtratus, and with Chæreſtratus, who now appears before you, many of you, I believe, perfectly know: but thoſe, who are unacquainted with our friendſhip, ſhall hear how ſtrong a proof I gave of it; for, when Meneſtratus ſailed to Sicily with the naval command, I, who had before been on a ſimilar expedition, foreſaw all the perils which enſued; yet, at the requeſt of theſe dear friends, I was the companion both of their voyage and of their misfortunes: now I ſhould act moſt abſurdly, if I voluntarily expoſed myſelf to ſuch imminent danger, becauſe I was connected with them and valued that connection, but ſhould now decline the taſk of ſpeaking for them, that you may decide their cauſe agreeably to your oaths, and that they may obtain complete juſtice from your verdict. I intreat you therefore to indulge me with your favour, and to hear me with benevolence; for this is no trifling conteſt, but a queſtion of the higheſt importance to the happineſs of my friends.

Philoctemon of Cephiſia, the ſon of Euctemon, had ſo great a regard for Chæreſtratus, that he adopted him by will and appointed him ſucceſſor to his eſtate: when, therefore, Chæreſtratus claimed his ſucceſſion in due form (at which time any Athenian had a right to ſet up an adverſe claim in a direct courſe of law, and, if he could prove a better title, would have enjoyed the fortune) this Androcles, inſtead of bringing a fair and regular action, entered a proteſtation that the eſtate was not liable to controverſy, intending to prevent my friend from ſupporting his claim, and you from determining who is the rightful heir of Philoctemon: thus in a ſingle cauſe and by a ſingle decree he hopes to obtrude upon the deceaſed two fictitious brothers, who bear no relation to him; to poſſeſs the property himſelf without a competitor; to diſpoſe as he pleaſes of Philoctemon's ſiſter; and to deſtroy the efficacy of his teſtament.

Of the many audacious falſities, which the proteſtation of Androcles contains, that concerning the will ſhall be firſt confuted; and I will prove not only that Philoctemon made a will, but that he appointed Chæreſtratus to be his ſon and ſucceſſor; for, as he had no children by his wife, as the war was carried on with violence, and as his frequent expeditions both by

land and ſea expoſed him to continual danger, he reſolved, leſt his inheritance ſhould become deſolate for want of an heir, to nominate one by his will: his two brothers had both died childleſs; and one of his ſiſters, who had been many years married to Chæreas, had borne him no male child; but his other ſiſter, the wife of my friend Phanoſtratus, had two ſons, the elder of whom, Chæreſtratus, he adopted as his own, and declared in his teſtament, that, if his wife was not delivered of a ſon, Chæreſtratus ſhould have his eſtate. This will, which he depoſited with his brother-in-law Chæreas, ſhall now be read to you; and then attend to the witneſſes who were preſent at the execution of it. THE WILL. EVIDENCE.

You have heard the proof of his will, and have obſerved how his eſtate is given by it to my client: now to prove th he had a power of making ſuch a teſtamentary diſpoſition, the law itſelf ſhall be produced, from which you will eaſily perceive the juſtice of the whole tranſaction. THE LAW.

This law, judges, which equally binds us all, permits every man, who has no legitimate children, to diſpoſe by will of his property, unleſs his faculties be impaired by age, or by diſorder, or by any of the infirmities which are ſpecified in the law: now that Philoctemon had not one

of theſe infirmities, I will in few words demonſtrate; for what man can have the hardineſs to impeach the underſtanding of ſo excellent a citizen, who, while he lived, received the higheſt honours from you, was advanced to the moſt important offices, and died in battle againſt your enemies? That he made his will then in his perfect ſenſes, as the law permitted him, you have heard clearly proved; ſo that on this head the falſe aſſertions of Androcles are apparent; but, as he has proteſted alſo that Antidorus was the legitimate ſon of Euctemon, this too I will ſhow to be untrue.

Euctemon, judges, had no other ſons than Philoctemon, Ergamenes, and Hegemon; he had alſo two daughters; and their mother was the daughter of Mixiades the Cephiſian: theſe are known to all his acquaintance, to thoſe of the ſame ward, and to many of the ſame borough, as they will preſently give in evidence; but, that he ever married another woman, of whom Antidorus was born, no man can pretend to know or ever to have heard in the lifetime of Euctemon. The relations of the family muſt have known all that paſſed, and we may ſuppoſe them to be the moſt credible witneſſes: call them, therefore, firſt; and then read the depoſitions of others. WITNESSES and DEPOSITIONS.

Yet further: I will convince you that our

opponents themſelves have in fact given the ſame evidence; for, at the examination before the Archon, when they depoſited the ſtated ſum, and contended that theſe young men were the legitimate ſons of Euctemon, being aſked by us, who was their mother, and whoſe daughter ſhe was, they were unable to inform us, though we proteſted againſt their allegation, and the Archon preſſed them to anſwer, as the law required. Could they, indeed, be allowed, judges, to contend and proteſt that the ſons were legitimate, when they could not declare, who their mother was, nor mention any one of her relations? Then, to be ſure, they delayed the ſuit by pretending, that ſhe was a Lemnian; but, when they came afterwards to be re-examined, they ſaid, before any queſtion was propoſed, that the mother of the young men was Callippe, the daughter of Piſtoxenus; thinking it ſufficient to pronounce a name, which they had probably invented: when we aſked who this Piſtoxenus was, and whether he was living or not, they anſwered, that he died fighting in Sicily, and left his only daughter to the care of Euctemon, to whom, while he was her guardian as well as huſband, ſhe bore theſe two ſons. A moſt audacious aſſertion, and palpable fiction! as I will prove to you by their very anſwers at the examination; for two and fifty years have

elapſed from the Archonſhip of Arimneſtus, when our armament embarked for Sicily, and the elder of theſe youths, whom they pretend to be the ſons of Euctemon and Callippe, has not paſſed his twentieth year: if then we deduct his age from the time ſince the Sicilian expedition, there remain above thirty years; ſo that Callippe could neither be in ward at that age, nor could ſhe have remained ſo long unmarried and childleſs, but muſt have had a huſband either by the authority of a guardian, or by an adjudication of the court. Beſides, ſhe muſt have been known by the friends of Euctemon, and by his ſervants, if ſhe really was married to him and lived ſo many years in his houſe; for it is not enough to produce mere names at an examination, but it is neceſſary to ſhow that the perſons actually exiſted, and to prove their exiſtence by the teſtimony of thoſe who were connected with them: yet when we challenged them to ſummon any of Euctemon's friends, who knew that ſuch a woman as Callippe lived with him or was his ward, and urged them to decide the controverſy by the evidence of ſuch domeſticks as were ſtill alive, or to deliver up to us any of their ſlaves, who might be compelled to diſcloſe what they remembered of the tranſaction, they would neither give up their own ſlaves to be queſtioned, nor take ours for

that purpoſe. Officer, read their anſwer, together with our depoſitions and challenges. ANSWER. DEPOSITIONS. CHALLENGES.

So deciſive a mode of proof have they declined; but it ſhall be my care to inform you, who this woman and her children are, and to deſcribe to you thoſe, who have declared them to be legitimate, and are ſtriving to procure for them the inheritance of Euctemon. It may perhaps be unpleaſant to Phanoſtratus, to hear the misfortunes of his father-in-law opened to the court; but it is expedient to ſay a few words concerning them, that, when you are apprized of the truth, you may be more able to decide according to juſtice.

Euctemon lived ſix and ninety years, the greater part of which time he paſſed with apparent proſperity; for he had an affluent fortune, a wife and hopeful children, with other ingredients of happineſs; but in his advanced age he met with no ſmall calamity, which threw his whole family into diſorder, conſumed a great part of his eſtate, and occaſioned a diſſenſion between him and his moſt intimate friends: what was the ſource of this evil, and in what manner it happened, I will explain as conciſely as I am able.

He had a freedwoman, who inhabited a houſe of his in the Piræus, where ſhe kept ſe-

veral female ſlaves, and among them one named Alce, whom, I fancy, moſt of you know: after this Alce had been bought, ſhe lived many years in that houſe, but, when ſhe grew older, was removed from it. While ſhe continued there, one Dio, a freedman, was connected with her, and by him as ſhe herſelf declared, ſhe became the mother of theſe two young men, whom Dio educated as his own; till, having committed a great miſdemeanor, and fearing a proſecution, he ſtole away to Sicyon: after which Euctemon gave Alce the care of his houſe in Ceramicus by the little gate, where they ſell wine. When ſhe was ſent thither, judges, ſhe was the occaſion of many and great diſorders; for Euctemon, going frequently to collect his rents, paſſed a conſiderable part of his time in that houſe, and even ſometimes ſat at table with the woman, having left his wife and children in the houſe, which he uſually inhabited; and, though his family were highly diſpleaſed, yet he perſiſted in his courſe, and ſpent his whole time with Alce, having either by poiſon, or by diſorder, or by ſome other infirmity, ſo totally loſt his underſtanding, that he was perſuaded by her to offer the elder of her two boys to the men of his ward under his own name; but when Philoctemon oppoſed his admiſſion, and the members of the ward refuſed to admit him, or to ac-

cept of the victim uſually given on ſuch occaſions, the old man, being enraged againſt his ſon, and deſiring to diſtreſs him, made a propoſal of marriage to the ſiſter of Democrates the Aphidnean, with an intent to educate and adopt her children as his own, if Philoctemon would not conſent to have the other admitted: upon which his relations, knowing that he could have no more children at his age, but that ſuppoſititious ſons might be produced, which would raiſe ſtill more violent animoſities, adviſed Philoctemon, judges, to give his conſent that his father ſhould introduce the boy to the ward, as he deſired, and allot a farm for his ſupport. In this advice Philoctemon acquieſced, heartily aſhamed of his father's dotage, but not knowing how elſe to ſecure himſelf from the calamity which threatened him: when therefore an agreement was made to that effect, and the boy was admitted as a member of the ward, Euctemon dropped his project of marrying, by which he ſhowed that his deſign had not been formed with a view to having children of his own, but for the ſake of admitting the baſtard of his miſtreſs; for what occaſion, judges, had he to marry, if, as they inſiſt, he had ſons born in wedlock with a citizen of Athens? Who could have prevented his admitting them to their freedom? Why ſhould he introduce them upon

certain conditions, when the law had ordained, that all children, begotten in matrimony, ſhould have an equal ſhare of their paternal fortune? Or why, laſtly, did he admit into his ward the elder only of the boys, and pay no regard to the younger, whom from the day of his birth he had not mentioned either to Philoctemon whilſt he was alive, or to any of his friends? Theſe are the men, Androcles, whom you have averred, in your proteſtation, to be the legitimate ſons of Euctemon. Now, to prove the truth of my aſſertions, let the depoſitions be read. DEPOSITIONS.

After this tranſaction Philoctemon was ſlain at Chios in a naval engagement, in which he had the command of a galley; and Euctemon declared in open court, that he was deſirous of recording his agreement with his ſon; at the ſame time Phanoſtratus, accompanied by his kinſman Chæreas, was on the point of ſailing with the fleet, which Timotheus conducted; and the veſſel, which he commanded, was juſt weighing anchor at Munichia, when Euctemon went thither attended by ſome friends, and, having written a will declaratory of the conditions on which he adopted this Antidorus, he depoſited the inſtrument with his relation Pythodorus of Cephiſia. Now, that he acted in this manner, not as if he had legitimate chil-

dren, both Androcles has proved, and the fact itſelf ſufficiently demonſtrates; for no man bequeaths any thing as a legacy to his own ſons, ſince the law gives every ſon the poſſeſſions of his father, and permits not any man, who has children begotten in wedlock, to diſpoſe of his eſtate by will.

When the writing had lain almoſt two years with Pythodorus, and Chæreas in the mean time was dead, theſe aſſociates, being ſubſervient to the inclinations of Alce, perceiving the property of Euctemon to be continually waſted, and concluding from his dotage, that a fair opportunity preſented itſelf, began their attack in concert; and firſt they prevailed with Euctemon to revoke his will, as diſadvantageous to the boys; becauſe his daughters only and their children would inherit his viſible property, but, if he ſold part of his land and left the ſum which he received for it, the adopted ſon and his friends would take firm poſſeſſion of the money. The old man, perſuaded by this reaſoning, demanded his will of Pythodorus, and inſtituted a ſuit for the production of it: when Pythodorus, therefore, appeared before the Archon, Euctemon declared that he wiſhed to cancel his will; and his kinſman aſſured both him, and Phanoſtratus who was preſent, that he did not oppoſe his intention, but, as Chæreas,

who had joined with Euctemon in depoſiting the will, had left a daughter, he thought it proper to defer the revocation of it till ſhe could give her conſent, and have a huſband or guardian who might confirm her act: as the Archon was of the ſame opinion, Euctemon, having made a declaration before the magiſtrate and his aſſeſſors, in the hearing of many witneſſes whom he called, that his teſtament was no longer valid, left the court.

Soon after this they proceeded to thoſe acts, with a view to which they had perſuaded him to reſcind his will: they ſold the Athmonian eſtate for ſeventy-five minas to Antiphanes; the Serangian bath to Ariſtolochus for thirty; and the houſe in the city which had been mortgaged for four and forty minas, they conveyed to the hierophant: next they diſpoſed of his goats, together with the goatherd, for thirteen minas; and two carriages to be drawn by mules, one for eight minas, and the other for five and a half; not omitting any of the ſlaves, who worked for his benefit. The ſum, which they collected from the ſale of theſe effects very ſoon after the death of Philoctemon, amounted to more than three talents. I will now call witneſſes, who will ſwear to the truth of all my aſſertions. EVIDENCE.

Thus were theſe poſſeſſions aliened: the deſtruction of the reſt they ſoon meditated, and contrived for that purpoſe the moſt infamous artifice, to which you ſhould particularly attend; for, perceiving that Euctemon was entirely ſuperannuated, and could not even riſe from his bed, they deliberated how they might after his death effectually ſecure his property to themſelves. What was the reſult of this deliberation? They announced the two boys to the Archon as having been adopted by the two deceaſed ſons of Euctemon; and, feigning themſelves to be their guardians, petitioned the magiſtrate that the lands and houſes of thoſe orphans might be expoſed to auction, ſo that ſome part of their eſtate might be let, and ſome of it pledged as a ſecurity for the rents; that the latter might be diſtinguiſhed by columns and inſcriptions, and that they themſelves, while Euctemon was alive, might receive the profits. As ſoon therefore as the courts were full, the magiſtrate cauſed the auction to be proclaimed, and a party of theſe conſpirators began to bid for the lots; when ſome, who were preſent, ran to inform our friends of the contrivance, and they, coming without delay, apprized the judges of the whole tranſaction: upon this the court would not ſuffer the houſes to be let;

but, if the ſcheme had not been detected, the whole eſtate would have been loſt. Call thoſe who were witneſſes of this affair. EVIDENCE.

Before theſe men were connected with this artful woman, and, in conjunction with her, conſpired againſt Euctemon, he poſſeſſed ſo large an eſtate, that both he and his ſon Philoctemon filled the moſt expenſive offices for your ſervice, and were ſo far from aliening their ancient poſſeſſions, that they were continually making new purchaſes with the money, which they had ſaved; but, when Philoctemon died, ſuch was the diſorder which prevailed, that not half of his former eſtate remained, and the rents were all extinguiſhed. Nor were they ſatisfied, judges, with conſuming this property; but, as ſoon as Euctemon was dead, and his body was lying in the houſe, they were audacious enough to detain the ſervants with them, that his death might not be mentioned to his daughters, or to his widow, or to any of his relations; while they, together with Alce, removed all the money and furniture to the next houſe, which had been rented, and was then inhabited, by one of their crew, this very Antidorus; nor, when the widow and daughters heard of Euctemon's death from others, and came to the door, would they ſuffer them to enter; but inſiſted, that it was not their buſineſs to bury the de-

ceaſed. Thus were they prevented from going in till juſt before ſun-ſet; and when they entered, they found the body, which had lain, as the ſervants declared, unburied for two days, and perceived that all the goods had been removed by theſe confederates. The women, therefore, employed themſelves, as their duty required, in preparing the corſe for burial, while my clients were ſhowing to ſome friends, who accompanied them, the miſerable condition of the houſe; and aſked the ſervants, in the preſence of the aſſociates, to what place the effects had been carried: when they anſwered, that Androcles and the reſt had conveyed them to the houſe next adjoining. Phanoſtratus and his companions thought it neceſſary to make a legal enquiry into the robbery, and demanded the ſlaves, who had carried the goods, to be delivered up to them; but the contrivers of the miſchief would not conſent to this act of juſtice. In confirmation of my narrative, read theſe depoſitions, and this inventory of the goods which were removed. DEPOSITIONS. INVENTORY. Thus having conveyed ſo many valuable effects from the houſe, having received the money ariſing from the ſale of ſo large an eſtate, and having divided among themſelves the rents which became due in ſo long an interval, they imagine that they ſhall be maſters of

the whole; and to ſuch a height of confidence have they advanced, though they durſt not meet us in a direct form of action, that they have averred the legitimacy of our two opponents by way of proteſtation; not conſidering, that they ſpeak both falſely and inconſiſtently with their previous conduct; ſince, when they appeared before the Archon, they ſtyled one of them the adopted ſon of Philoctemon, and the other of Ergamenes, whereas they now proteſt them both to be the ſons of Euctemon: yet had they been lawfully begotten, and had they been adopted, as they firſt alledged, not even then could they have been called the ſons of Euctemon; for the law forbids a ſon by adoption to return into the family, from which he was emancipated, unleſs he leave a legitimate ſon of his own in the family which adopted him; ſo that, even from their own behaviour, it is manifeſt that their evidence is falſe. If they had then completed their ſcheme of letting the houſes, my clients would now be precluded from aſſerting their right; but, as the judges declared that it was not their buſineſs to let them, theſe men have not ventured to diſpute our title in a regular courſe of law, but have proteſted, with exceſſive audacity, that the very perſons whoſe claim you rejected were lawful heirs to the eſtate. Obſerve too the aſſurance of Andro-

cles, who firſt claimed for himſelf the daughter of Euctemon, as if ſhe had been the heireſs, and inſiſted on his right to a fifth part of the property, as if it had been liable to litigation, yet has now averred that Euctemon left a legitimate ſon. Has he not by this clearly convicted himſelf of having given falſe evidence? He certainly has; for had a ſon of Euctemon begotten in wedlock been living, his daughter could not have been heireſs, nor could the eſtate have been open to controverſy: to prove that he firſt made ſuch a claim, theſe depoſitions ſhall be read to you. EVIDENCE.

The very reverſe, therefore, has now happened of that which the law ordains; for it is enacted, that, from the Archonſhip of Euclid, no male or female baſtard ſhall have any right of conſanguinity either in civil or ſacred matters: but Androcles and Antidorus think themſelves entitled to ſtrip the daughters of Euctemon and their ſons of their inheritance, and to ſeize the poſſeſſions both of him and of Philoctemon; while this woman, who impaired Euctemon's underſtanding, and has poſſeſſed herſelf of ſo vaſt a ſum, has inſolence enough, through their perſuaſion, not only to undervalue her late maſter's friends, but even to treat the whole city with contempt. A ſingle circumſtance, which you ſhall hear, will eaſily convince you

of her lawleſs impudence; but firſt let the law be read. THE LAW.

This ordinance, judges, have you ſo piouſly and ſolemnly made, thinking it of high importance to the ſtate, that Ceres and Proſerpine, as well as all the other deities, ſhould be adored with reverence; but the mother of my adverſaries, who was confeſſedly a ſlave, whoſe whole life had been marked with infamy, and who conſequently ought neither to have entered the temple, nor to have ſeen any thing that it contained, had the boldneſs, when divine rites were performed to theſe goddeſſes, to accompany the proceſſion, to walk into the temple, and to inſpect what it was unlawful for her to ſee: the decree of the ſenate concerning her proves the truth of my allegations. THE DECREE.

You muſt then conſider, judges, whether a ſon of this woman ſhould ſucceed to the eſtate of Philoctemon, and perform holy ceremonies at his tomb, or the ſon of his own ſiſter, whom he had himſelf adopted; and whether the ſiſter of Philoctemon, who was married to Chæreas, and is now a widow, ſhould be at their diſpoſal, either to be given in marriage to any man, whom they chuſe, or to grow old in a ſtate of widowhood, or whether ſhe ought not, as a legitimate daughter, to be diſpoſed of by yourſelves as your wiſdom ſhall direct: on this point

muſt your judgment now be given, for to this dangerous criſis are my clients reduced by the proteſtation. Should theſe confederates fail of ſucceſs in the preſent conteſt, and ſhould the eſtate be declared open to controverſy, they may again bring the queſtion before you in another action: yet, if a will was made by Philoctemon, which he had no power to make, his power ought now to have been diſputed; but, if he undeniably had ſuch a right, and the fact only of his having deviſed his property be denied, they ſhould not have oppoſed our claim by this collateral mode of litigation, but ſhould have brought the matter in due form to a regular iſſue. At preſent, what clearer method can be found of proving this man's teſtimony to be falſe, than by interrogating him thus? Whence, Androcles, do you know, that Philoctemon neither made a will nor adopted Chæreſtratus? For it is reaſonable, judges, that a man ſhould give evidence of thoſe tranſactions of which he was eye witneſs, or he may on ſome occaſions even repeat what he has heard from others. You have expreſsly averred, that Philoctemon never made a will and died childleſs; but how is it poſſible, judges, for this to be known by him? It is the ſame, as if he were to aver, that he knows what all of you are doing every day. This at leaſt, audacious as he is, he will not af-

ſert, that he was perpetually in Philoctemon's company, and knew every action of his life; for of all men living, the deceaſed abhorred him moſt, both for his general improbity, and becauſe he alone of all his relations conſpired with Alce to embezzle the goods of Euctemon, and acted in concert with her in the manner before deſcribed.

Above all it muſt neceſſarily move our indignation, that they ſhould ſo impudently abuſe the name of Euctemon, the grandfather of Chæreſtratus; for if, as they alledge, Philoctemon had no power to appoint an heir, and if the eſtate was Euctemon's, is it not more juſt that his poſſeſſions ſhould be inherited by his daughters, who were indiſputably legitimate, and by us, who are their ſons, than by men, who bear no relation to him, and who are confuted not only by our arguments, but alſo by the conduct of theſe provident guardians? This, judges, I ſupplicate and adjure you particularly to remember, as I before related it; and as you have it in evidence: that Androcles firſt declared himſelf their guardian, as if they were the legitimate ſons of Euctemon, and then claimed for his own uſe the property of their ſuppoſed father: now, in the name of the immortal gods, is it not abominable, judges, that, if theſe men be legitimate, their guardian ſhould claim for him-

ſelf both their fortune and the daughter of the deceaſed Euctemon, as if ſhe was the object of a judicial conteſt, and that, if they are illegitimate, he ſhould now make an averment of their legitimacy? Theſe are plain contradictions: ſo that the falſity of his teſtimony has been proved not only by witneſſes, but alſo by his own behaviour.

As to Chæreſtratus, no man gives him aſſiſtance by proteſting that the eſtate is not open to litigation; but he deſires to proceed in the regular courſe; while this fellow prevents all others from aſſerting their claims, and, having averred that Euctemon left children begotten in matrimony, imagines that you are to be deluded with impertinent digreſſions, believing that, if he wholly omits the material heads of argument, or very ſlightly touches them, but pours forth his abuſe againſt us with a loud voice, and exclaims that my clients are rich, whilſt he is indigent, it will inſtantly appear to you, that the children were legitimate. Now, my clients, judges, have ſpent a greater part of their fortune in the ſervice of the ſtate, than for their own advantage: ſeven times has Phanoſtratus equipped a galley; he has ſerved all the publick offices, and obtained many honours for the magnificence of his ſhows. Chæreſtratus too, when he was very young, furniſhed a veſſel at his own

expence; ſince which time he has conducted the theatrical entertainments, and preſided over the exerciſes at the feſtival of Torches. Both of them have brought their contributions among the citizens of the richeſt claſs; hitherto they have ſerved together, and now the younger of the brothers conducts the chorus in the tragedies, has been enrolled among the three hundred, and contributes his ſhare to defray the publick charges; ſo that my friends ought not to be envied; but theſe aſſociates themſelves, I ſwear by Jupiter and Apollo, will be far juſter objects of envy, if they obtain what they have no right to claim; for, ſhould the fortune of Philoctemon be decreed to Chæreſtratus, he will diſpenſe it liberally for your benefit; and, as he has hitherto done, or even with greater alacrity, will ſuſtain every burden, which you ſhall impoſe upon him; but ſhould theſe men be maſters of ſuch an eſtate, they will begin by diſſipating it, and end with claiming again the property of ſome other perſon. I therefore entreat you, judges, leſt you ſhould be deceived by theſe confederates, to pay a ſcrupulous attention to their proteſtation, concerning which you are now to decide; and command them to make their defence conſiſtent with that writing, as we have opened our charge in conformity to it: they have there averred, that Philoctemon

neither aliened nor deviſed his eſtate, which averment has been proved falſe; for we have ſhown that he both made a will and diſpoſed of his fortune, as thoſe, who were preſent at the tranſaction, have teſtified. What elſe have they aſſerted? That Philoctemon died without children—yet how can a man be ſaid to have died childleſs, who had adopted his nephew as his ſon, to whom the law gives his inheritance as regularly as if he were an immediate deſcendant? And it is expreſsly ordained, that, if a man having a ſon by adoption, has afterwards another child, both of them ſhall equally inherit his poſſeſſions. Let him demonſtrate, therefore, the legitimacy of theſe children, as each of you can demonſtrate his own: for this is not proved by mentioning the mother's name, but by declaring the truth, by producing the relations, and thoſe who know that ſhe was married to Euctemon; by examining the members of the ſame borough and ward, if they have at any time heard, or can ſay from their own knowledge, that he was at any publick expenſe on her account; by informing you where ſhe was buried, where her monument ſtands, and where her children, who ſurvived her, ſtill perform ſacred rites; by ſhowing, laſtly, who ſaw ſuch rites performed by Euctemon, and who, either among the ſervants or among the citizens

in general, knows any of theſe tranſactions. All this would be a proof, but mere invective is none; and, if you compel my antagoniſt, judges, to prove the very facts, which he has averred to be true, you will make a pious decree according to the laws, and my clients will obtain ſubſtantial juſtice.

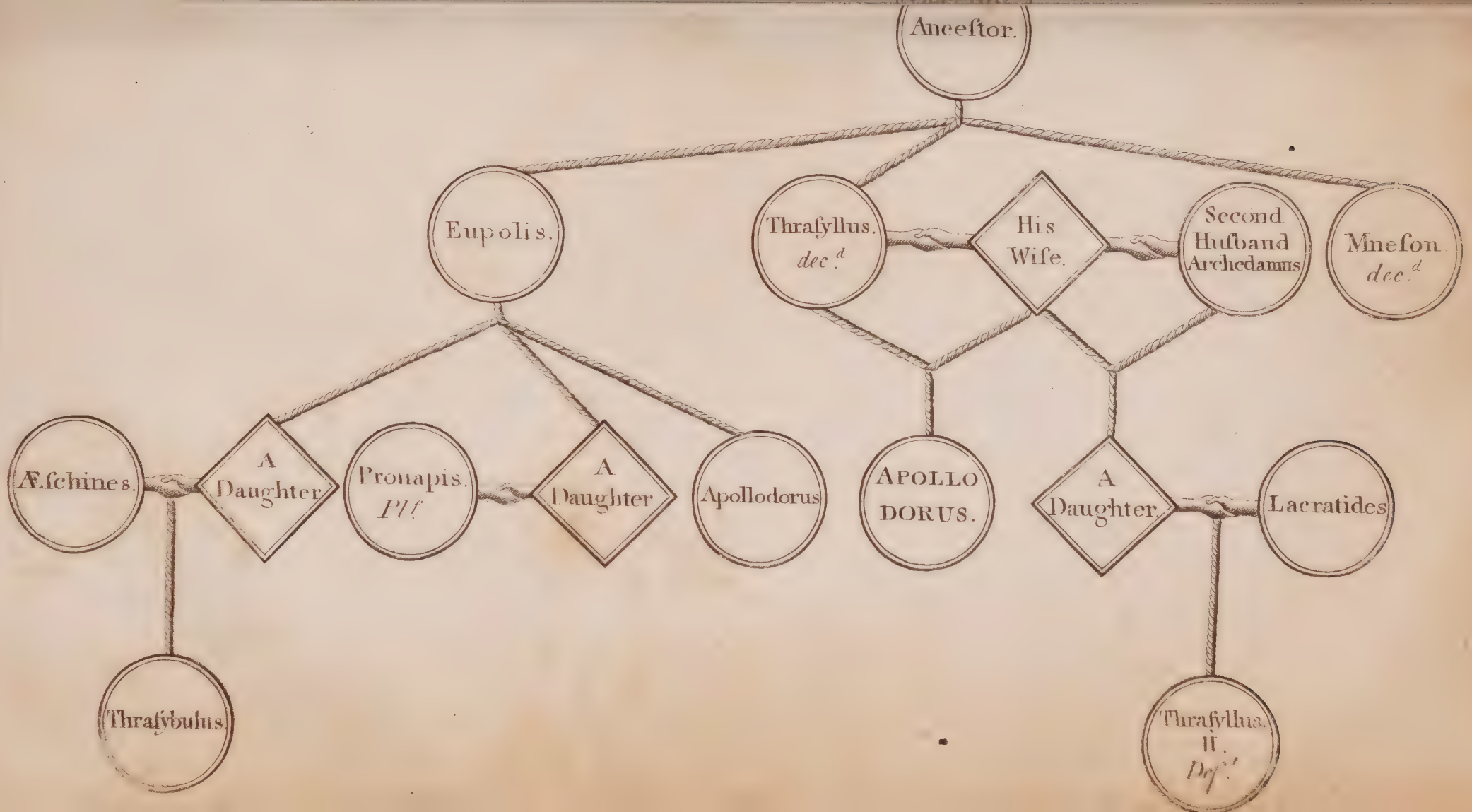
SPEECH THE SIXTH.

ON THE ESTATE OF APOLLODORUS.

THE ARGUMENT.

THERE were three brothers, Eupolis, Thrasyllus, and Mneson; the youngest of whom died without issue: the second left a son named Apollodorus. Eupolis, the surviving brother, was appointed guardian to his nephew, and had two daughters living, one of whom was married to Æschines, the other to Pronapis, the complainant in this cause.

The widow of Thrasyllus married Archedamus, who, perceiving that Apollodorus, his wife's son, was injured by his guardian, assisted him in applying to a court of justice, and obtained redress for him in two actions. This Archedamus had a daughter by the mother of Apollodorus, and that daughter, who married Lacratides, had a son, whom Apollodorus, on the death of his own son, adopted in his lifetime, and caused to be registered in the books of his kindred and ward by the name of Thrasyllus.


Anceſtor.
Eupolis.
Thraſyllus. dec.d
His Wife.
Second Huſband Archedamus
Mneſon dec.d
Æſchines.
A Daughter
Pronapis. Plf
A Daughter
Apollodorus
APOLLO DORUS.
A Daughter.
Lacratides
Thraſybulus.
Thraſyllus. II. Def.t

APOLLODORUS died; and Pronapis, in right of his wife, claimed the estate of the deceased, alledging that Thrasyllus was not entered in the register according to the true intent of his uncle, but that the adoption was a mere fiction and artifice.

The cause is, in the language of the Ancients, conjectural; or, in the dialect of our bar, it is an issue, "Whether Thrasyllus was really adopted by Apollodorus, or not."

SPEECH THE SIXTH.

Thraſyllus againſt Pronapis.

I DID imagine, judges, that ſuch adoptions as were made by a man in his perfect ſenſes, who had conducted his adopted ſon to the ſhrine of his anceſtors, had preſented him to his kinſmen, had inſerted his name in their common regiſter, and had performed in perſon all the uſual ceremonies, were not to be controverted in a court of juſtice; but that, if a man, apprehenſive of his approaching end, had bequeathed his eſtate to another, had ſealed his teſtament, and committed it to the care of a friend, the validity of his will might afterwards be juſtly diſputed; ſince by the former mode of alienation the intent of the party is openly manifeſted, and the whole tranſaction made valid by the law, while the intention of a teſtator, being more ſecretly and obſcurely expreſſed, is liable to ſuſpicion; whence many have contended againſt the claimants under a will, that the inſtrument itſelf was forged and void: but I now perceive this diſtinction to be of little avail; for, though my adoption was a fact of general notoriety, yet the daughter of Eupolis with her huſband and

their advocates come to conteſt my right to the poſſeſſions of Apollodorus.

Now had I obſerved, that you were better pleaſed with the oblique form of a proteſtation than with a direct courſe of proceeding, I could have produced witneſſes to prove that my right was inconteſtable; becauſe I am the ſon of the deceaſed by a regular adoption; but as I am ſenſible that the true merits of the cauſe cannot be known by this method, I come to inform you of the whole tranſaction, and ſhall thus preclude them from the power of imputing to me an unwillingneſs to meet them on the faireſt ground: I will demonſtrate then, not only that the many injuries, which Apollodorus had ſuſtained from his neareſt relations, prevented him from leaving his fortune to them, but that he legally and juſtly adopted me, who am his nephew, and the ſon of his greateſt benefactor.

I entreat you all, judges, to indulge me with a benevolent hearing; and, if I convince you, that theſe aſſociates have moſt audaciouſly claimed an eſtate to which they have no colour of title, aſſiſt me in obtaining juſtice: I will ſpeak as conciſely as I am able, in relating the whole affair from the beginning of it.

Eupolis, judges, Thraſyllus, and Mneſon, had the ſame father and mother; and their patrimony, which they divided equally among them-

ſelves, was ſo conſiderable, that each of them was appointed by you to fill the moſt expenſive offices: two of theſe brothers periſhed nearly at the ſame time; Mneſon died in the city, unmarried and childleſs; and Thraſyllus, whoſe ſon Apollodorus afterwards adopted me, fell in the Sicilian expedition, in which he had been elected to command one of our gallies. The ſurviving brother, Eupolis, ſeized for his own uſe no ſmall part of the inheritance: he took for himſelf, under the pretence of a legacy, the whole of Mneſon's property, one half of which belonged to Apollodorus; and ſo faithful was he in his guardianſhip, that he was condemned to refund three talents, of which he had defrauded his nephew; for my grandfather Archedamus, who had married the mother of Apollodorus, and was grieved to ſee him ſtripped of all his fortune, took both my grandmother and him to his houſe, where he gave him an education, as if he had been his own ſon, and, when he was adult, aſſiſted him in claiming a moiety of Mneſon's eſtate, and all the effects of which this careful truſtee had deprived him. Thus, having obtained a decree for him in two ſuits, he recovered his whole patrimony; on which account Apollodorus retained a violent enmity againſt Eupolis, as long as he lived, whilſt a firm friendſhip ſubſiſted, as it ought,

between him and Archedamus: but from his ſubſequent conduct we may draw the moſt certain concluſion, that Apollodorus was deſirous of rewarding his benefactors for the advantages which they had procured him; for, when my grandfather had the misfortune to be made captive by the enemy, Apollodorus contributed largely towards the payment of his ranſom, and even gave a hoſtage for him, till he was able to raiſe the whole ſum; after which, when Archedamus was reduced from affluence to urgent neceſſity, this truly grateful man undertook the management of his affairs, giving him a competence out of his own fortune. Yet more; when he was going with the army to Corinth, he left his eſtate by will to his half-ſiſter, whoſe ſon I am, and gave her in marriage to Lacratides, who has ſince been appointed hierophant: ſuch were his kindneſs and gratitude towards us, who had originally preſerved him from ruin. Now that my aſſertions are true, and that Eupolis was actually caſt in two actions, one for his diſhoneſt guardianſhip, and the other for a moiety of Mneſon's property, in both which cauſes my grandfather was the adviſer and advocate of Apollodorus, who by our means recovered his poſſeſſions, and afterwards requited the obligation with ſuch liberality, I will prove by the

cleareſt evidence: call the witneſſes hither. WITNESSES.

Such then and ſo great were the benefits, which we had conferred on him; but ſuch was his hatred of Eupolis, who had attempted to rob him of ſo large a fortune, that there was no poſſibility of a reconciliation between them, nor can it be alledged that their connection was ever reſtored: of their unalterable antipathy there cannot be a clearer proof, than that Eupolis, who was deſcended from the ſame common anceſtor with Apollodorus, and knew him to be a wealthy man, offered him neither of his two daughters in marriage; yet ſuch alliances have a natural power to appeaſe the animoſities, not of relations only, but of any indifferent men, when they intruſt each other with the deareſt pledges of their affection: whether Eupolis, therefore, was to blame for not offering his daughter, or Apollodorus for not accepting her, this fact alone proves the continuance of their diſſenſion.

What has already been ſaid concerning their diſagreement, will, I think, be ſufficient; for I am perſuaded, that many of the oldeſt among you recollect their diſputes and litigation; ſince the importance of the cauſes, and the two decrees which Archedamus obtained againſt Eu-

polis, gave celebrity to the affair: but I requeſt you, judges, to hear with attention the proofs that he adopted me in his lifetime and in perſon, and that he appointed me ſucceſſor to his eſtate, having inſcribed my name in the records of his family, and in the publick regiſter of his ward.

Apollodorus had a ſon, whom he both educated and cheriſhed, as it became him; and whom he hoped to leave heir to his fortune; but the boy dying of a ſevere illneſs in the month of December in the laſt year, his father, depreſſed by ſo cruel a misfortune, and deſpairing at his age of having another child, called to his remembrance that family, from which in his youth he had received a ſignal obligation; and, going to my mother, his half-ſiſter, for whom he had the tendereſt regard, he declared his intention to adopt me, and requeſted her to reſign me to him as his ſon: ſhe granted his requeſt; and ſo eager was he to execute his reſolution, that he carried me inſtantly to his own houſe, and intruſted the whole management of it to my care; conſidering, that he was no longer capable of ſuperintending all his affairs in perſon, and that I grew continually more and more able to tranſact them. At the feſtival of the Thargelia, therefo e, he conducted me to the altars among thoſe of the ſame family and

ward: now it is a rule with them, that whoever introduces to them either his own ſon, or a ſon by adoption, muſt ſwear by the ſacred rites, that the perſon introduced was born of an Athenian citizen in lawful marriage; when this oath has been taken, the other members of the ſocietydetermine by ballot whether he ſhall be admitted; and, if they decide in his favour, he may then, but not before, have his name inſcribed in the regiſter: with ſuch exactneſs are their ordinances and cuſtoms obſerved. This then being their law, the whole aſſembly, not doubting the veracity of Apollodorus, to whom they had adminiſtered the uſual oath, and knowing that I was the ſon of his ſiſter, voted unanimouſly for the enrollment of my name; and thus was I adopted by him in his lifetime, as the law permitted him to adopt me, and regiſtered by the name of Thraſyllus, the ſon of Apollodorous: read theſe depoſitions, which prove the truth of what I have related. DEPOSITIONS.

I ſuppoſed therefore, judges, that you would readily give credit to the witneſſes, who have ſworn, and to his relations, whoſe behaviour has manifeſtly declared, that Apollodorus performed the ceremony of my adoption conformably to law; for Eupolis left two daughters; one who was married to Pronapis, and is a claim-

ant in this cauſe; and another, the wife of Æſchines the Luſian, who died leaving a ſon, then of full age, named Thraſybulus: now there is a law, that, if a brother by the ſame father die childleſs and inteſtate, his effects ſhall be divided equally between his ſurviving ſiſter, and the ſon of another ſiſter, who died before him; nor were my opponents ignorant of this law, as their very conduct has manifeſted; for, when the ſon of Eupolis was dead without children, Thraſybulus took a moiety of his eſtate, which may be fairly eſtimated at five talents. Thus the law gives the ſiſter and the ſiſter's ſon an equal ſhare of their father's and their brother's fortune; but, when a couſin dies, or any kinſman in a remoter degree, the male relations are called to the ſucceſſion before the female; for it is enacted, that males and the children of males, if any be living, ſhall be preferred, although they are leſs nearly related to the deceaſed. The wife, therefore, of Pronapis ought not to have claimed even a part of this inheritance, but Thraſybulus would have contended for the whole, if he had not thought my adoption valid: whereas he neither at the beginning diſputed my title, nor at any time ſince has claimed the fortune of Apollodorus, but confeſſes that I was legally appointed his ſucceſſor; whilſt her advocates have attained

ſuch a height of impudence, that they have preſumed to claim the whole eſtate. Take the laws, which my adverſaries have violated, and read them to the court. FIRST LAW. By this law the ſurviving ſiſter and her ſiſter's ſon are entitled to an equal ſhare of their brother's property. Now read the other, by which females are excluded in the ſucceſſion to the fortune of their couſins. SECOND LAW. Read this alſo which enacts, that, if there be no firſt nor ſecond couſins on the part of the father, thoſe on the mother's part ſhall ſucceed to the eſtate according to the rules there expreſſed. THIRD LAW.

Such being the law, this male relation has not even claimed a part of the inheritance, while the huſband of a female has contended in her right for the whole: thus imagining, that mere audacity will avail them, they puſh it to any length in this cauſe, and alledge, as a reaſon for their exorbitant demand, that Thraſybulus was adopted into the houſe of Hippolochides, and emancipated from his own; which I allow to be true, but inſiſt that it is nothing to the purpoſe; for how was he leſs entitled to claim this eſtate? It was not in right of his father Æſchines, but of his mother, that he ſucceeded to half the fortune of Apollodorus, the ſon of Eupolis; and by the ſame right he would have

made a juſt claim to the preſent ſucceſſion, as he was preferred to any female claimant, had he not been convinced, that my adoption was legal and regular; but Thraſybulus is not ſo daring: now a title to a maternal eſtate is not loſt by emancipation, but every man continues to have the ſame mother, whether he remain in his father's houſe, or be emancipated; ſo that he was not deprived of his ſucceſſion to his maternal uncle Apollodorus, but received an equal portion with the ſurviving daughter of Eupolis, as the witneſſes, whom I ſhall now call, will prove.

EVIDENCE.

It is apparent then, that not only the men of the ſame family and ward bore teſtimony to my adoption, but that Thraſybulus himſelf has in fact acknowledged, by not claiming the fortune, that he believed the act of Apollodorus to be conformable to law, and conſequently valid; for, if that had not been his opinion, he would never have waived his right to ſo large an inheritance: of this tranſaction I can produce other witneſſes; for, before my return from the Pythian games, Apollodorus apprized his fellow-burgeſſes, that he had appointed me his heir, and had enrolled me among the members of his ward; informing them at the ſame time, that he had committed his eſtate to my care, and requeſting them, if any accident ſhould befal

him, to enter me in the publick regiſter by the name of Thraſyllus the ſon of Apollodorus, and by no other name. When they heard this declaration (though the friends of Pronapis complained in their aſſembly, and diſputed the validity of my adoption, yet) the burgeſſes, from their own knowledge of the fact, took the accuſtomed oath, and inſerted my name in their regiſter, as Apollodorus had enjoined them, being fully perſuaded that my adoption was perfectly legal: call the witneſſes to theſe facts. WITNESSES. So clear, judges, is the evidence of my adoption, an inveterate enmity having ſubſiſted between the deceaſed and the family of Eupolis, and the ſtricteſt friendſhip having been maintained between him and us, to whom alſo he was nearly related: but, had he neither deteſted them nor loved our family, he would never, as I hope eaſily to convince you, have left his poſſeſſions to my antagoniſts; for all they, who think their end approaching, look forward with a prudent care that their houſes may not become deſolate, but that there may be ſome perſon to attend their funeral rites, and to perform the legal ceremonies at their tombs; if, therefore, they have no children, yet they leave heirs by appointment; nor is this merely the cuſtom of private men, but it is ordained by the publick and common laws, which command the

Archon to provide that families be not extinguiſhed; now Apollodorus was perfectly ſenſible, that, if he were to leave his eſtate to theſe men, he ſhould occaſion the deſertion of his houſe. Why ſo? Becauſe he had ſeen theſe two ſiſters inherit the poſſeſſions of Apollodorus their brother, without appointing a ſucceſſor to him, although they had ſons of their own, whom they might have appointed; he had ſeen their huſbands ſell the lands and all the effects which they had inherited, to the amount of five talents, which money they divided among themſelves, and he had obſerved the ſhameful and deplorable deſolation of the family. Since then he ſaw that the memory of a brother was ſo little revered, how could he have expected, even had friendſhip ſubſiſted between them, to be treated with due veneration, when he was a couſin only, and not a brother? He could not hope it. Now that they appointed no heir to ſupport the family of that Apollodorus, yet are in poſſeſſion of his fortune, and have waſted an eſtate, which was known to ſupply the expenſe of equipping gallies, the witneſſes, who ſhall next be called, will give ample proof. EVIDENCE.

If ſuch therefore were their diſpoſitions, and ſo violent was their enmity to Apollodorus, by whom I was adopted, how could he have acted

more wiſely than as he did act? Should he have taken a child from any of his friends, and left his property to him? Yet it would have been uncertain even to the parents of that child, by reaſon of his tender age, whether he would be a virtuous or a worthleſs man; but of my good qualities he had received a ſufficient ſpecimen; for he well knew, how affectionately I had behaved to my father and mother, how attentively to my friends, how prudently I managed my own affairs, how far removed I had been in my magiſtracy from injuſtice or corruption: of all this he was fully convinced, when he committed his poſſeſſions to my care; nor was I a ſtranger to him, but his ſiſter's ſon, nor were the benefits inconſiderable, which we had conferred on him; nor was I lowminded and unambitious enough to aliene his property, as my opponents have aliened the fortune of their brother, but was willing and eager, after his example, to furniſh and command your ſhips, to lead your armies, to conduct your entertainments, to perform whatever you ſhould order. If then I was his kinſman, his friend, and his benefactor, both of an exalted mind and of approved virtue, who can doubt that his adoption of me was the act of a prudent and a grateful man? Even in this very year I have performed one of thoſe duties, which Apollodorus himſelf

would have applauded: I preſided over the exerciſes in the Promethean games with liberality and magnificence, as the whole tribe know, and as many of them will now teſtify. WITNESSES.

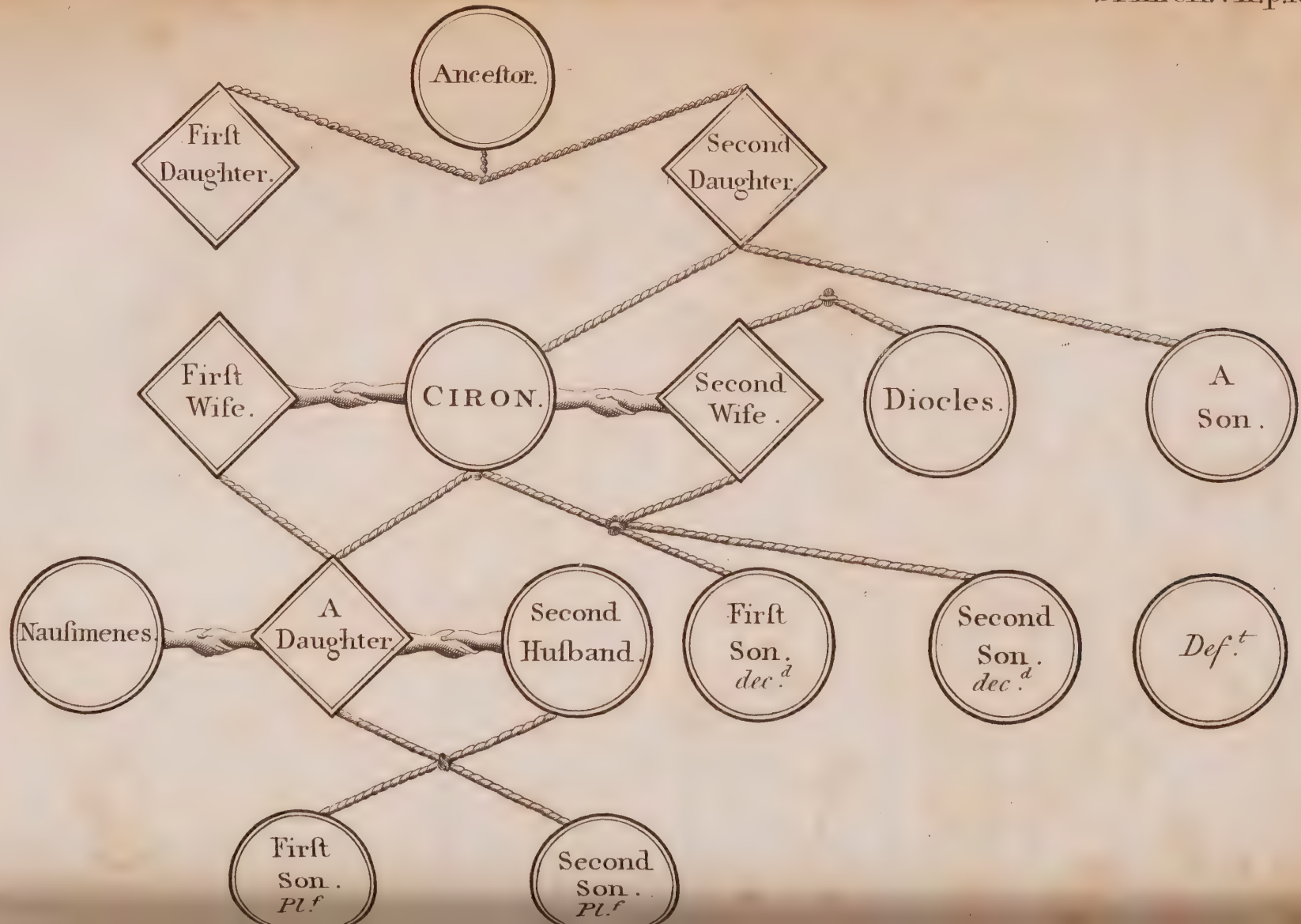
Theſe, judges, are the lawful and reaſonable grounds of our preſent claim: we therefore entreat you to aſſiſt us in ſupporting it, for the ſake both of Apollodorus and of his father, whom you will find, if you reflect upon their conduct, to have been no uſeleſs citizens, but inſpired with all poſſible zeal to promote your intereſt; for his father Thraſyllus not only filled every other expenſive office, but continued, as long as he lived, to command a galley, which was not built by contribution, as many veſſels are now made, but at his own expenſe; nor was he ſecond only in the command, but ſtood alone; nor did he intermit his duty for two years, as he might have done, but performed it conſtantly; and not with negligence or in haſte, but with the moſt ſplendid preparations; for which noble conduct you approved and honoured him; and, remembering his laudable actions, would not ſuffer his ſon to be ſtripped of his property, but compelled his falſe guardian to reſtore it. Nor was Apollodorus himſelf like this Pronapis, who, to defraud the publick, pretended that his fortune was ſmall, but taking his rank among thoſe of the equeſtrian order,

he ſuſtained the charges of the higheſt magiſtracies; not endeavouring by violence to take the property of others, and contriving that you ſhould reap no advantage from it, but openly declaring the full amount of his eſtate, and bearing with alacrity whatever burden you impoſed: thus he ſtrove to live with elegance on his own income, without injuring any man; thinking it incumbent on him to be moderate in his private expenſes, that he might be able to dedicate the remainder of his fortune to the ſervice of the publick. With this overplus what office did he not completely fill? What ſum was he not the firſt to contribute? In what part of his duty was he deficient? He obtained the prize in the youthful games, which he conducted; and yonder tripod remains a monument of his liberality on that occaſion. What are the duties of a virtuous citizen? To preſerve his own fortune; not, like diſſolute and abandoned men, to attack the property of others; and, if the ſtate has need of ſupplies, to contribute among the firſt, without concealing any part of his poſſeſſions. Such then was Apollodorus; and you will make but a juſt return for his ardour in ſerving you, if you eſtabliſh his adoption of me according to his clear intent: nor will you find even me, as far as my youth has qualified me for your ſervice, either a bad or an idle citizen;

for I have borne arms in all your expeditions, and continue to obey the commands of my country, as men of my age ſhould obey them. For the ſake, therefore, of Apollodorus and his father, as well as of me and my family, conſider our cauſe with attention; eſpecially as our adverſaries have never furniſhed a ſingle galley, but have diſſipated and reduced to nothing an eſtate of five talents: whereas we have already filled your moſt chargeable offices, and will again fill them with eagerneſs, if you effectuate the intention of my uncle, and give me the eſtate, which he appointed me to inherit. That I may not ſeem tedious in expatiating longer on theſe facts, I will deſcend, as ſoon as I have ſuccinctly recapitulated to you the ſeveral points, on which we reſt our reſpective claims.

As my own mother was the ſiſter of Apollodorus, as an intimate friendſhip ſubſiſted between us, never interrupted by any diſagreement, I, whom he adopted as his ſon, when he was living and in his perfect ſenſes, I, who was enrolled among thoſe of the ſame family and ward with himſelf, demand the eſtate which he gave me, and deſire that theſe men may not have it in their power to extinguiſh ſo illuſtrious a family: but what are the pretenſions of Pronapis? He firſt took a moiety of the fortune, which had been left by his wife's brother, and

now he claims this inheritance, though others are more nearly related to the deceaſed than his wife can pretend to be: yet he has neither appointed a ſon to ſupply the place of his brother, but has ſuffered his family to become extinct, nor would he have acted otherwiſe with regard to my uncle; and he makes this claim, though Apollodorus had ſo great an averſion to him, and a reconciliation never afterwards took place between them. This, judges, you will conſider; and will alſo recollect, that I am the nephew of the deceaſed, and that the wife of Pronapis is only his couſin: that ſhe has inherited two eſtates, whilſt I ſucceed to this alone as a ſon by adoption; that ſhe laſtly was not well inclined to him, whoſe property we claim, but that I and my father were his real benefactors. Thus reflecting and reaſoning with yourſelves, give a ſentence agreeable to juſtice: it would be ſuperfluous to add more; for I am perſuaded, that no part of my argument has eſcaped your attention.


Anceſtor.
First Daughter.
Second Daughter.
First Wife.
CIRON.
Second Wife.
Diocles.
A Son.
Nauſimenes.
A Daughter.
Second Huſband.
First Son. dec.d
Second Son. dec.d
Def.t
First Son. Pl.f
Second Son. Pl.f

SPEECH THE SEVENTH.

ON THE ESTATE OF CIRON.

THE ARGUMENT.

CIRON being dead without leaving a son, his nephew entered upon his estate; and the clients of Isæus brought an action to recover it, insisting that they had the better title as grandsons of the deceased by his legitimate daughter: there are two questions in the cause, an issue of fact, whether the complainants were lawfully descended from Ciron or not; and an issue in law, whether a daughter's or a brother's son has more right to the property of an intestate. The writer of the Greek argument to this speech appears to have mistaken the law of Athens, which will be more fully explained in the commentary.

SPEECH THE SEVENTH.

The Grandſons of Ciron againſt his Nephew.

IT is impoſſible, judges, to ſuppreſs our juſt indignation, when men are not only bold enough to claim the property of others, but even hope by their ſophiſms to refine away the ſound rules of law, as our adverſaries are now attempting to do; for, although my grandfather Ciron died not childleſs, but left me and my brother, the ſons of his legitimate daughter, yet theſe men have both claimed his eſtate, as his next of kin, and inſult us with aſſerting that we are not his grandſons, and that he never had a daughter in his life; to this audacity have they been incited by their ſordid love of gain, and allured by the value of Ciron's eſtate, which they violently ſeized, and now unjuſtly poſſeſs; being abſurd enough to alledge that he died in indigence, yet contending at the ſame time that they have a right to his fortune. Now I conſider myſelf as contending in this cauſe, not with the nominal party to the ſuit, but with Diocles of Phlya, whoſe mad violence has procured him the name of Oreſtes; for it was he, who firſt inſtigated

my opponent to give us this trouble, with an intent to deprive us of our ſucceſſion to the property of our grandfather, and has thus expoſed us to danger, that he may not be compelled to reſtore the goods which he has embezzled, if he can perſuade you by his falſe allegations to pronounce your decree in his favour. Theſe being their machinations, it is neceſſary for you to be informed of the whole tranſaction, that, when you are fully apprized of every circumſtance, you may decide the cauſe from your perfect knowledge of it; and, if you have ever attended to any other cauſe, hear this, I intreat you, with attention: juſtice indeed requires it; for in the many ſuits with which Athens abounds, no man will be found to have invaded the poſſeſſions of another with more impudence and a greater contempt of decency than theſe confederates. It is no eaſy taſk, judges, for one, wholly void of experience in courts, to enter into a conteſt of ſo great importance againſt the premeditated quibbles of ſubtle ſpeakers, and againſt witneſſes prepared to violate the truth; yet I am not without hopes of being reſtored to my right by your ſentence, and of ſpeaking ſo far at leaſt with tolerable propriety as to ſupport my juſt demand, unleſs ſome ſuch misfortune ſhould befall me as I cannot even now help fearing: I ſupplicate you, therefore,

judges, to hear me with candour, and, if you think me injured, to redreſs the injury which I have ſuſtained.

Firſt, then, I will convince you, that my mother was the legitimate daughter of Ciron, and will prove by hearſay evidence what happened a long time ago, and by living witneſſes what it is ſtill poſſible for them to remember: to this I will add a number of circumſtances, which are often more deciſive than the teſtimony of fallible men; and when I have evinced the truth of this point beyond a doubt, I will demonſtrate, that we have a juſter claim than our adverſaries to the eſtate of the deceaſed. I will begin my narrative from that part of the caſe, whence they alſo began their argument.

My grandfather Ciron, judges, married his firſt couſin, the daughter of his mother's ſiſter, who bore my mother, and died three years after marriage. Ciron, having this only daughter, took for his ſecond wife the ſiſter of Diocles, by whom he had two ſons: with her and her children my mother was educated, and, when ſhe attained a proper age, was given by her father in marriage to Nauſimenes of Cholargia, with a fortune of twenty-five minas, together with clothes and ornaments of gold. Three or four years after this, Nauſimenes died of a violent diſorder, leaving no children by

my mother, whom Ciron received again into his family (but without her entire portion, as her huſband had been in diſtreſs) and gave her to my father with a fortune of a thouſand drachmas. That all theſe tranſactions really paſſed, as I relate them, and fully diſprove the falſe pretences on which our adverſaries now inſiſt, I diſcovered a method of evincing with the utmoſt clearneſs; for, whether my mother was, or was not, the daughter of Ciron, whether ſhe made part of his family or not, whether he ſolemnized her two nuptials, and what fortune he gave with her to each of her huſbands, all this muſt neceſſarily be known to his ſervants of both ſexes: deſiring therefore in addition to the evidence, which I ſhall adduce, to confirm theſe facts by an extorted confeſſion, that you might give the greater credit to ſuch witneſſes as had previouſly exhibited a proof of their veracity, I propoſed to my antagoniſts, that the male and female ſlaves ſhould be queſtioned on the rack concerning their knowledge of theſe occurrences; but this very Diocles, who will preſently intreat you to believe his witneſſes, declined ſo eaſy a mode of diſcovering the truth. If then his refuſal to accept my offer, which muſt be imputed to his fear of ſo deciſive an inveſtigation, be clearly proved, what remains to be thought of his witneſſes? No-

thing, in my opinion, but that they are foresworn: in proof of this fact, read firſt the depoſition, which I have brought. DEPOSITION.

Now you are all, I believe, perſuaded, that an inquiſition by torture, both in publick and private cauſes, is the beſt and ſureſt mode of inveſtigating truth; nor, when both free men and ſlaves are preſent, and it is expedient to obtain a diſcovery of facts, is it your cuſtom to examine the free men, but to rack the ſlaves, and thus to extort a true relation of all that has happened: in this reſpect you think and act wiſely, judges; for you well know, that many perſons examined in the uſual form have given evidence indubitably falſe; but of all thoſe, who have been expoſed to torture, none have ever been convicted of falſehood: and will this moſt audacious of men requeſt you to believe his artful pretences, and his witneſſes, who ſwear againſt truth, when he declines a mode of proof ſo exact and concluſive? Our conduct is widely different; and, as we firſt propoſed to diſcover the whole tranſaction by the means of torture, to which propoſal we have proved that they would not conſent, we think it reaſonable, that our witneſſes ſhould be credited. Read next theſe depoſitions, which prove my mother's legitimacy. DEPOSITIONS.

Whom can we ſuppoſe acquainted with what

happened ſo long ago? Thoſe, no doubt, who were intimate with my grandfather: their teſtimony then has been repeated by many who heard them aſſert the truth of it. Who muſt unavoidably know, that my mother was given in marriage? Thoſe, who betrothed her, and thoſe who were preſent at the time of the affiance: to this point, therefore, we have adduced the evidence of perſons, who were connected both with my father and with Nauſimenes. Who muſt be conſcious that ſhe was bred in the houſe of Ciron, and that ſhe was his legitimate daughter? My adverſaries themſelves have ſhown this to be true, by declining the diſcovery propoſed; ſo that you cannot juſtly diſbelieve our witneſſes, but have great reaſon to ſuſpect the credibility of theirs.

To theſe arguments may be added many circumſtances, which prove that our mother was the daughter of Ciron; for, as it became a man to treat the ſons of his own daughter, he never made a ſacrifice without us; but, whether he ſolemnized the greater feſtivals or the leſs, we were always preſent and always partook of them; nor were we invited to theſe only, but he conſtantly carried us into the country to the Dionyſian feaſts: with him we ſate to view the games, and at his houſe we paſſed every holiday. Beſides, he moſt aſſiduouſly paid his

adorations to Jupiter the Enricher, into whoſe temple he admitted no ſlave whatever, nor any freemen who were not of his family, but conducted the whole ceremony himſelf; yet even of this celebrity were we partakers, performing the holy rites together with him, and aſſiſting him in the operations of the ſacrifice: he then prayed the deity (as a grandfather would naturally pray) to grant us good health and ample gains; nor, had he not believed us to be his daughter's children, and the only lineal deſcendants, whom he was to leave behind him, would he have ſhown us this parental affection, but would have taken for his companion, the man, who now pretends to be his nephew? The truth of all this muſt be accurately known by my grandfather's ſlaves, whom this man will not ſuffer to be interrogated on the rack; but the ſame facts were notorious alſo to ſome of his intimate friends, whoſe evidence ſhall now be produced: take their depoſitions, and read them to the court. DEPOSITIONS.

Nor from theſe tranſactions alone is it manifeſt, that our mother was the legitimate daughter of Ciron, but alſo from the conduct of our own father, and from the manner in which ſhe herſelf was treated by the women of the ſame borough; for, when my father married her, he gave an entertainment, to which he invited

three of his acquaintance, beſides his particular friends, and preſented thoſe of his ward with the nuptial victim, according to their inſtitutions: after this the wives of his fellow-burgeſſes elected her, together with the wife of Diocles the Pithian, to lead the proceſſion, and perform divine rites at the temple of Ceres; and my father, when we were born, introduced us to his ward, having previouſly ſworn, as the law requires, that we were his ſons by a citizen of Athens, whom he had legally eſpouſed; nor did a ſingle man of the ward, although many were preſent who ſcrupulouſly examine ſuch matters, ſay a ſyllable againſt our admiſſion, or entertain a doubt of his veracity. Now it cannot be imagined, that if our mother had been what theſe men falſely pretend, our father would have celebrated his connection with her by a nuptial feaſt and the uſual ſacrifice; he would rather have kept the whole affair ſecret; nor would the matrons of his ward have choſen her, with the wife of Diocles, to perform their ſacred rites, and to preſide over the ſolemnity, but would have given that reſpectable charge to another; nor would the members of the ward have received us, but would have objected to our admiſſion, and juſtified their objection, had it not been allowed on all ſides, that our mother was Ciron's legitimate daughter: the truth,

indeed, of this fact is now ſo apparent, and ſo many perſons have a perfect knowledge of it, that it is no where diſputed. Call up the witneſſes, who will prove what I have laſt aſſerted.

EVIDENCE.

Yet further, judges; that we are the acknowledged grandſons of Ciron, the behaviour of Diocles himſelf, after my grandfather's death, will clearly demonſtrate; for I went, accompanied by one of my friends, a couſin of my father, to bring the body to my own houſe, from which I intended to begin the funeral proceſſion: Diocles was not within; but, when I entered, and was directing the aſſiſtants, whom I had brought, to remove the corſe, my grandfather's widow intreated me to begin the funeral from her houſe, offering to aſſiſt us in laying out and embalming the body; ſhe wept and ſupplicated, judges, till ſhe prevailed; and, meeting Diocles, I told him before witneſſes, that, as his ſiſter had requeſted me, the remains of Ciron ſhould be carried to the place of burial from the houſe in which he died: to this he made no objection, but ſaid that he had brought ſome things neceſſary for the funeral, and had given earneſt for them; he therefore exacted a promiſe from me to pay what they coſt, and deſired me to give him back the earneſt, engaging to bring me to thoſe who had received it of him: ſoon after

indeed he affected to infinuate, that Ciron died inſolvent, though I had not then ſpoken a word about his fortune. Now if he had not known me to be the grandſon of Ciron, he would never have made ſuch an agreement with me, but would rather have addreſſed me thus.—What man are you? What concern have you with the burial? I know you not: come not within my doors. This he ſhould then have ſaid himſelf, which he has now ſuborned others to ſay: nothing however of the kind was even intimated by him, but he requeſted me to bring him the money on the next morning; and here, to prove the truth of this narrative, let the witneſſes be called. EVIDENCE.

Nor was he alone ſilent on this head; but even the preſent claimant of the eſtate advanced nothing in oppoſition to my right, till he was inſtigated by this fellow to diſpute it; for when I carried the money on the following day, Diocles refuſed to accept it, alledging that he had received it from my adverſary: yet I was not prevented from joining in the funeral rites, but aſſiſted at the whole ceremony; the expenſes of which were not borne by my opponent, but were defrayed out of the money which Ciron left: now it would have become him, if the deceaſed had not been really my grandfather, to have thruſt me out, to have expelled me, and to

have hindered me from conducting the burial in conjunction with them. Our ſituations in this reſpect were by no means ſimilar; for I permitted him, as the nephew of my grandfather, to act in concert with me; but he ſhould not have ſuffered me to join with him, if that had been true, which they now have the impudence to alledge. To ſuch a degree, indeed, was Diocles confounded with the truth of my aſſertions, when in my funeral oration I accuſed him by name of an attempt to invade my property, and of inciting my antagoniſt to make this unjuſt claim, that he durſt not even mutter a ſyllable againſt me, much leſs inſinuate what he now ſo audaciouſly advances. Call thoſe alſo who will prove this fact. WITNESSES.

What now, in the name of the gods, can induce us to believe what we hear aſſerted? Is it not the teſtimony of witneſſes? I think it undeniable. How can their evidence be procured? Is it not by the fear of torture? Moſt aſſuredly. Why then ſhould you give no credit to the allegations of my adverſaries? Is it, becauſe they declined ſo complete a proof? Yes, beyond a doubt. How is it poſſible, therefore, to demonſtrate more clearly, that my mother was Ciron's legitimate daughter, than by producing hearſay evidence of what happened many years ago, and by giving you the poſitive teſtimony of

living witneſſes, who know that ſhe was educated in his houſe, was conſidered as his child, was twice betrothed by him, and twice given in marriage; and by ſhowing moreover, that they refuſe to examine the ſlaves who had a perfect knowledge of all theſe tranſactions? The whole of this I have given in evidence; and a more convincing proof, by all the deities of heaven, cannot be produced; but what has already been advanced ſeems fully ſufficient to evince the juſtice of my demand.

I now proceed to give you entire conviction, that I have by law a greater right than my antagoniſt to the eſtate of Ciron; and it is apparent, I believe, to all of you, that thoſe who are deſcended only from the ſame ſtock with the deceaſed are not more nearly related to him than thoſe who are deſcended from himſelf: how, indeed, ſhould it be ſo, when the firſt are his collateral kinſmen, and the others his lineal deſcendants? Since however they are daring enough to argue againſt the manifeſt reaſon of the thing, I will prove my point more diffuſely by arguments drawn from the laws themſelves: firſt, if my mother, the daughter of Ciron, were ſtill living, if her father had died inteſtate, and if this man had been his brother inſtead of his nephew, he would have a power, indeed, to marry his daughter; but no man would have a

right to his eſtate, except her children, to whom the law would give it at the age of ſixteen years; if, then, were ſhe alive, he would not have been entitled to her fortune, but her ſons would have been the lawful heirs, it is evident, that, as ſhe died leaving children, they only, not theſe confederates, ſhould ſucceed to her poſſeſſions. Nor does this law only confirm my title; but that concerning diſtreſſed parents eſtabliſhes the point, for which I contend: had my grandfather been alive and in want of neceſſaries, the guilt of ſuffering him to continue in diſtreſs would have been imputed, not to our adverſary, but to us; for the law enjoins us to ſupport our parents, by whom are meant our fathers and mothers, grandfathers and grandmothers, and their fathers and mothers, if they are living; ſince, as they are the root and ſtock of the family, and as their deſcendants regularly ſucceed to their property, it is juſt and natural to maintain them, how little ſoever they have to leave. Can it then be thought reaſonable, that, even if they had had nothing, we ſhould have been liable to a proſecution for not ſupporting them, yet, if they leave a fortune, that theſe men, not we, ſhould ſucceed to it? By no means.

I will begin, then, with the neareſt of a man's collateral relations, and will call for your ſenti-

ments on the compariſon between them and his lineal deſcendants; for this method will eaſily convince you. Who was more nearly related to Ciron, his daughter or his brother? No doubt, his daughter; for ſhe deſcended immediately from him, but he only derived his deſcent from the ſame anceſtor. Is the brother to be preferred in the order of ſucceſſion, or the daughter's ſons? Her ſons indiſputably; for theirs is a direct deſcent, not a collateral relationſhip: ſince then we are ſo far nearer than a brother, we muſt have conſiderably a better claim than this man, who is only a nephew. But I fear, leſt, by dwelling too long on a point which cannot fairly be diſputed, I ſhould tire your patience; for all of you inherit the poſſeſſions of your fathers, grandfathers, and anceſtors of a higher degree, by the uncontrovertible title of a lineal deſcent: the caſe is ſo clear, that I cannot believe there ever before was ſuch a conteſt. I ſhall therefore conclude this part of my argument, with reading the law concerning the diſtreſſes of parents; and ſhall then explain to you the motives which induced my opponents to haraſs me with this cauſe. THE LAW.

The property of Ciron, judges, conſiſted of a farm in Phlya well worth a talent, and two houſes in the city, one of which, near the temple of Bacchus in the Marſhes, was occupied by

a tenant, and might be ſold for twenty minas; the other, which he inhabited, was worth thirteen: he had, beſides, ſome ſlaves who worked for his advantage, two female ſervants and a girl, together with utenſils and houſehold furniture, which, with the ſlaves, were worth as much as the houſe. His whole real eſtate may be valued at rather more than a talent and a half; and he had no inconſiderable ſum of money out at intereſt, from which he received a good annual income. Diocles and his ſiſter had long projected to poſſeſs themſelves of this fortune; and, as ſoon as the two ſons of Ciron were dead, he did not remove her from the old man (though ſhe might then have borne children by another huſband), fearing leſt, if they were ſeparated, he ſhould diſpoſe, as he ought to have done, of his poſſeſſions; but perſuaded her to continue with him, to pretend that ſhe was enſeint, and afterwards to alledge that ſhe had miſcarried; for he knew, that, if Ciron could entertain hopes of having other children, he would not adopt either of us. As to my father, Diocles perpetually calumniated him, aſſerting that he had conſpired to ſeize the property of Ciron: his next ſtep was to defraud my grandfather of all his money, while he pretended to execute the office of receiving his intereſt, and managing his landed property. Thus

did he inveigle the old man by adulation and ſervility, till he had all his effects within his graſp; yet, well knowing that after Ciron's death I ſhould have a juſt claim to his fortune, he did not prevent me from attending and converſing with him: he feared, I imagine, the conſequences of my reſentment at that time; but he has now ſuborned a man to controvert my right to the ſucceſſion, and, if he ſhould be victorious, would allow him a ſmall ſhare of the plunder, while he means to ſecure the whole inheritance for himſelf; yet, even to this very man, he did not at firſt acknowledge that Ciron left any eſtate, but aſſerted that he died in abſolute indigence. As ſoon as my grandfather was dead, this Diocles made preparations for the funeral; the expenſe of which, as you have heard from the witneſſes, he required me to defray; yet he afterwards refuſed to accept the money from me, on pretence that he had before received it from my opponent; thus artfully intending to let it appear, that he himſelf, not I, was preparing to bury the deceaſed: when, therefore, he raiſed this controverſy, both concerning Ciron's houſe and his other poſſeſſions, yet ſtupidly inſiſted, in the ſame moment, that he had left nothing at all, I thought it an improper time (and the opinion of my friends coincided with mine) to remove the body by force;

but I aſſiſted them, and attended the burial, the charges of which were ſupplied out of Ciron's eſtate. In this manner was I compelled to act; but, leſt it ſhould give them an advantage over me, if they could ſay with truth that I bore no part of the expenſe, I contributed my ſhare, by the advice of a lawyer whom I conſulted; and I performed ſacred rites in the handſomeſt manner on the ninth day after the funeral, both that they might be prevented from the impiety of performing them, and might not ſeem to have expended the whole ſum without my participation.

Theſe, judges, are the tranſactions which relate to my cauſe, and theſe are the reaſons which induced my enemies to attack me; but, were you perfectly acquainted with the ſhameleſs impudence of Diocles, you would not heſitate a moment in giving full credit to my whole narrative; for this wretch actually robbed his three half-ſiſters, who were left heireſſes to their father, of the fine eſtate which makes him now ſo ſplendid, by pretending that he was the adopted ſon of their father, who, in reality, made no will, on purpoſe to exclude him: and when thoſe who had married two of his ſiſters commenced a ſuit againſt him for their fortunes, he ſo malignantly entangled the huſband of the eldeſt in the ſnares of perverted law, that he

cauſed him unjuſtly to be marked with infamy; for which, though an action has been brought againſt him, he has not yet ſuffered the puniſhment he deſerves; and, having hired a ſlave to aſſaſſinate the huſband of the ſecond ſiſter, he privately ſent the aſſaſſin out of Attica, and accuſed the wife of the murder: then, intimidating her with his audaciouſneſs, and compelling her to be ſilent, he obtained the guardianſhip of her ſon by the deceaſed, and ſtripped him of his property, keeping all the cultivated land in his own poſſeſſion, and giving his ward by way of compenſation a few ſtony fields. There are perſons now preſent, who know this to be true: they are afraid, indeed, of Diocles; but, perhaps they will be ready to give their evidence; if not, I will produce others, who have an equal knowledge of the facts. Firſt, however, call up thoſe who are preſent. WITNESSES.

This man then, ſo profligate and ſo rapacious, who plundered the inheritance of his ſiſters, is not contented with that plunder; but, becauſe a juſt puniſhment has not yet overtaken him, he comes to deprive me alſo of my grandfather's eſtate, and having, as we are credibly informed, promiſed to give my adverſary two minas out of the ſpoils, has expoſed us to the danger of loſing not our fortune only, but our country; ſince, if he can deceive you into a belief, that

our mother was not a citizen of Athens, neither are we citizens; for we were born after the archonſhip of Euclid. Is this litigation then, which his lies have ſet on foot againſt me, of trifling conſequence? When my grandfather and father were alive, no charge whatever was brought againſt us, and our right was always conſidered as indiſputable; but ſince their death, it will be ſome reproach to us, even if we are ſucceſsful, that our title was ever diſputed; a reproach, for which we may thank this execrable monſter, this frantick Oreſtes, who, having been caught in adultery, and ſuffered the chaſtiſement which he deſerved, cannot even now deſiſt from his crimes, as many, who well know his guilt, can teſtify.

The diſpoſition and character of this fellow you have now partly heard, and ſhall hear it more at large when I have brought him to a trial in a proſecution, which I meditate: in the mean time, I ſupplicate and adjure you, permit him not to triumph over me, by ſtripping me of the fortune which my grandfather left; but, as far as each of you is able, give me aſſiſtance. Sufficient evidence has been laid before you: we have read our depoſitions, have opened to you what their ſlaves would infallibly have confeſſed, and have produced the laws themſelves; by all which we have proved, that we

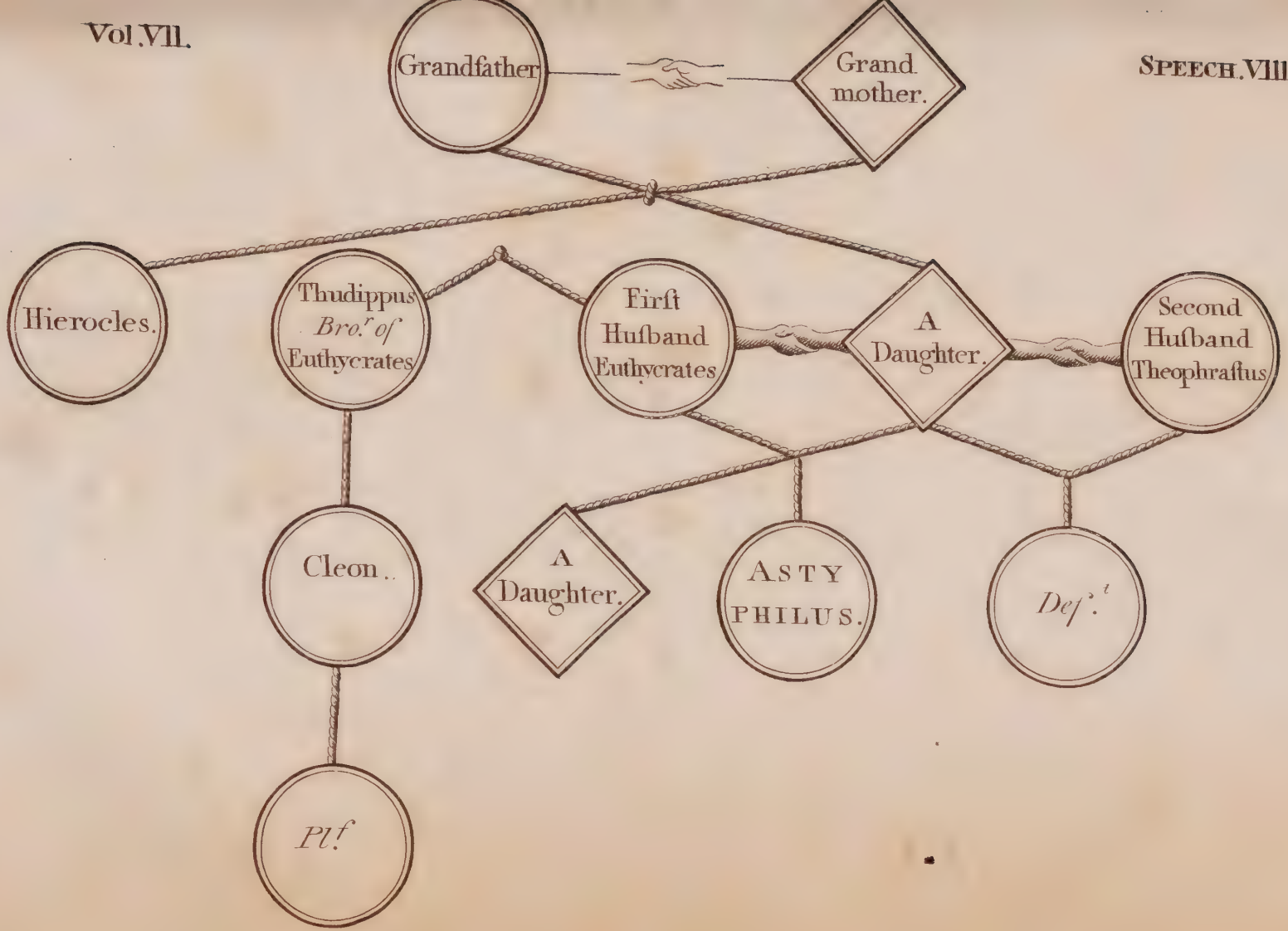
are the ſons of Ciron's legitimate daughter, and conſequently that his eſtate comes not to them, but to us, as his lineal deſcendants: calling therefore to your remembrance the oaths, by which you are bound to decide impartially, and the laws, which have been adduced, pronounce your ſentence agreeably to juſtice. I ſee no occaſion for a longer argument, as I believe you perfectly comprehend the whole caſe: let the officer, however, read this remaining depoſition, that Diocles was taken in adultery. DEPOSITION.

SPEECH THE EIGHTH.

ON THE ESTATE OF ASTYPHILUS

THE ARGUMENT.

THE mother of the defendant in this cause had a son named ASTYPHILUS, by her first husband Euthycrates, whose nephew Cleon, after the death of Astyphilus, produced a will, by which Cleon's son was appointed to inherit the fortune of the deceased. The client of Isæus contends that the will of his half-brother was forged.


Grandfather
Grand mother.
Hierocles.
Thudippus Bro.r of Euthycrates
First Husband Euthycrates
A Daughter.
Second Husband Theophrastus
Cleon.
A Daughter.
ASTY PHILUS.
Def.t
Plf

SPEECH THE EIGHTH.

The Son of Theophraſtus againſt Cleon.

ASTYPHILUS, for whoſe eſtate we contend in this cauſe, and who was my half-brother, judges, by the ſame mother, died at Mitylene, whither he had ſailed with the army; and that he never adopted a ſon, nor ever aliened his eſtate, or diſpoſed of it by will, ſo that no man but myſelf has a right to his poſſeſſions, I ſhall endeavour to prove, agreeably to the oath which I have previouſly taken. This Cleon, my antagoniſt, was the firſt couſin to the deceaſed by his father's ſide, and it is his own ſon, whom he pretends that Aſtyphilus adopted: now Cleon's father was transferred by emancipation into another houſe, in which the whole crew of confederates are ſtill reſident, ſo that by law they bear no relation at all to the laſt poſſeſſor of this eſtate; but, as there could be no queſtion on this head, they have produced a will, which I ſhall demonſtrate, I think, to be forged, and are now ſtriving, judges, to rob me of my brother's fortune. So confident, indeed, was Cleon (nor has his confidence, it ſeems, forſaken him)

of his excluſive title to the eſtate in diſpute, that no ſooner was Aſtyphilus reported to be ſlain, while my father was confined by illneſs, and I was bearing arms abroad, than he ruſhed upon the land and claimed all my brother's effects in right of his ſon, not waiting, as he ought, for your determination in his favour; yet, when the remains of their couſin were brought to Athens, this fictitious ſon of his neither laid out the body nor buried it; but ſome of his friends and fellow-ſoldiers, conſidering the malady of my father, and my abſence from the city, performed the laſt honours to the dead by aſſiſting at his funeral rites, and led my ſick father to the tomb, well knowing that his piety would be acceptable to the departed ſpirit; all which facts will be atteſted by the friends themſelves who were preſent at theſe ceremonies. WITNESSES. That Aſtyphilus was not interred by my opponent, has been given in evidence; nor will he himſelf deny it.

On my return then from the war, when I found that theſe aſſociates were enjoying the fruits of my eſtate, and heard Cleon aſſert that the will, by which my brother adopted his ſon, had been left with Hierocles of Hephæſtia, I went to Hierocles; not ignorant of his cloſe connection with Cleon, but believing that he would hardly dare to ſpeak falſely concerning

the deceaſed, eſpecially as he was our uncle: yet, when I interrogated him on the ſubject, he anſwered (regardleſs of theſe conſiderations), that the will, which he had received from Aſtyphilus, was then in his poſſeſſion; and here, to prove that he made this anſwer, let a depoſition be read. DEPOSITION. Since, therefore, judges, none of my brother's friends were preſent at his death, and ſince his body was brought hither in my abſence, it is neceſſary for me to convince you, by arguments drawn from their own aſſertions, that the will which they produce was fabricated by them, and that no will at all was made by Aſtyphilus; for it is reaſonable to ſuppoſe, that, if he had intended to leave an heir by adoption, he would have provided effectually for the ſecurity of his appointment, and taken care that his adopted ſon ſhould not only poſſeſs his eſtate, but have acceſs to the ſhrines of his anceſtors, and perform the accuſtomed rites both to their ſhades and to his own: he muſt have been ſenſible too, that his intentions would take effect, not if he left a will unatteſted by his friends, but if he firſt convoked his relations; next, thoſe of the ſame borough and ward; and laſtly, as many of his intimate acquaintance as he could aſſemble, to attend the execution of ſo important an inſtrument; for ſuch precaution would have made it eaſy to refute any perſon

whatever, who might falſely claim the eſtate as legatee or as next of kin; but nothing of this ſort appears to have been done by Aſtyphilus, who called together none of his friends to atteſt this pretended will, as I ſhall prove by the teſtimony of thoſe friends themſelves, unleſs any one of them has been ſuborned by Cleon, to declare that he was ſummoned. EVIDENCE.

Now Cleon will probably contend, that the evidence, juſt given by theſe witneſſes of their entire ignorance that Aſtyphilus ever made a will, is not concluſive; but, in my apprehenſion, when the controverſy turns upon the exiſtence of a teſtament and the adoption of a ſon, the declarations of intimate friends, that they were not preſent at a tranſaction of ſo much conſequence, ought to have far more weight than the allegations of mere ſtrangers that they were preſent; nor would Cleon himſelf, who was never remarked for ſimplicity, have neglected to convene any relations of Aſtyphilus, who were in the city, or any other perſons whom he knew to be at all connected with him, that they might atteſt a will, by which his own ſon was appointed heir to an eſtate; for no man could have prevented the teſtator from diſpoſing as he pleaſed of his own property, and ſuch conduct would have removed the ſuſpicion naturally ariſing from a will made in ſecret. Had

it been the deſign of Aſtyphilus, judges, to conceal from all men, that he had appointed the ſon of Cleon as his heir, or that he had left any teſtimony whatever, it muſt be ſuppoſed, that no witneſs at all would have ſubſcribed his name; but, ſince they ſhow you the names of witneſſes, and thoſe not of his acquaintance, but of any ſtrangers whom he might happen to meet, it is not poſſible to conceive that the will can be genuine; for I cannot perſuade myſelf that a man, who was going to nominate an heir, would ſummon any witneſſes, but ſuch as were to be partakers for the future of the ſame rights and the ſame communion with the perſon to be nominated: the deceaſed, however, could have no inducement to keep this tranſaction ſecret; for, as the law permits every one to diſpoſe of his property according to his inclination, no man needs be aſhamed to have ſuch an inſtrument atteſted by any number of witneſſes.

Now conſider, judges, the time when Aſtyphilus made, as they aſſert, a teſtamentary diſpoſition of his fortune; for they alledge, that he made it when he was at the point of ſailing with the forces to Mitylene; by this account he muſt have had a ſingular foreknowledge of events; for he firſt ſerved at Corinth, next in Theſſaly, and during the whole Theban war; nor did he fail, wherever he heard that an army was raiſed,

to offer his ſervice; yet not on one of theſe occaſions did he make a will, but deferred that ceremony till his laſt expedition to Mitylene, in which he periſhed. Can it ſeem credible then to any one among you, that, when Aſtyphilus was formerly preparing for his other campaigns, and well knew the danger of them all, he left no directions whatever concerning his affairs, but that, when he was going to ſail as a volunteer, in which character he was leſs expoſed to peril, and muſt have entertained hopes of returning ſafe, he ſhould then only write his will, and ſhould loſe his life in the adventure? Can it be thought credible, that the contingency of events ſhould have correſponded ſo exactly with his conduct?

Without purſuing this argument farther, I will lay before you, judges, the ſtrongeſt evidence that the allegations of my adverſaries are falſe; for I will prove that Aſtyphilus bore the moſt violent enmity to Cleon; ſo violent, that, rather than adopt the ſon of the man, whom he moſt deteſted, he would have ordered in his will, that none of his relations ſhould have the leaſt communication with him; for Thudippus, Cleon's father, having quarrelled with Euthycrates, the father of Aſtyphilus, concerning the diviſion of his inheritance, ſo cruelly beat him, that he expired after languiſhing for a few days,

and his death was indubitably occaſioned by the blows, which he had received: the truth of this can be proved by many of the Araphenians, who were at that time employed in cultivating the adjacent lands; but it is not in my power to call any of them, who will poſitively accuſe Thudippus of ſo atrocious a crime. As to Hierocles, who ſaw him ſtrike his brother, I know his unwillingneſs to give any evidence tending to defeat the will which he now produces, and which, as he alledges, was left in his cuſtody: let him be called, however, that he may either publickly confirm the truth of my aſſertion, or refuſe to be examined. WITNESS.

This, I was perfectly ſure, would be his anſwer; for it is conſiſtent with the conduct of a man, who wiſhes to perſuade you that he knows to be true what in fact never happened, to decline giving evidence of what he really knows to be true: but I will call another witneſs, who is married to the grandmother of Aſtyphilus, and who will ſwear that Euthycrates, juſt before he died, commanded his friends to prevent any of Thudippus's family from approaching his tomb. EVIDENCE.

When Aſtyphilus, therefore, heard this fact related in his childhood, both by theſe witneſſes and by his other kinſmen, he determined, as ſoon as his reaſon began to dawn, rather to pe-

riſh than hold any converſation with Cleon; thinking it impious to converſe with the ſon of that man, who was accuſed of having murdered his father: that his deteſtation of Cleon continued through his whole life, I will prove by the teſtimony of witneſſes, who know the truth of my aſſertion. WITNESSES.

Had it not been for this reaſon, it muſt be imagined, that whenever Aſtyphilus attended thoſe feaſts, which other Athenians uſually attend, he would have gone to them, accompanied by no man but Cleon, who bore ſo near a relation to him, who belonged to the ſame borough, and whoſe ſon, above all, he was going to adopt; but the depoſition of his fellow-burgeſſes, which the officer ſhall read, will prove that he never once appeared at the feaſts in company with Cleon. DEPOSITION.

With no better claim to the affection of Aſtyphilus, this man has the boldneſs to produce his own ſon as heir by appointment to the deceaſed; but why ſhould Cleon alone be cenſured? Even Hierocles, our uncle, is audacious enough to come with a will which was never executed, and to aſſert that my brother committed it to his care. This conduct, Hierocles, is a ſorry compenſation for the many marks of kindneſs which you received when your fortune was more narrow than at preſent, as well from

Theophraſtus my father, as from Aſtyphilus himſelf; for you are attempting to exclude me, who am the ſon of your benefactor and of your own ſiſter, from that ſucceſſion which the law has allotted me, to injure by your falſe aſſertion the memory of the dead, and, as far as you can prevail, to give his eſtate to the man whom he abhorred. Before the inheritance, judges, was even formally claimed, this very Hierocles, who was conſcious that none but myſelf had a right to the eſtate of Aſtyphilus, applied ſucceſſively to all the acquaintance of the deceaſed, offered the whole fortune to ſale, and incited entire ſtrangers to ſet up a title, alledging that he was the uncle of Aſtyphilus, and promiſing, if any one would give him a due ſhare of the plunder, to produce a will of his nephew in favour of his confederate; yet now, when he has concluded his bargain with Cleon, and has contracted for a diviſion of the ſpoils, he has the confidence to expect that his ſtory will gain credit, and would be ready, I dare ſay, to forſwear himſelf, if an oath were tendered to him by my adverſaries: thus, for the ſake of me, who am his kinſman, he would not even give in evidence what was ſtrictly true; but, for the benefit of one who has not a ſhadow of right, he has not ſcrupled to propagate lies, and comes with a forged inſtrument to make you believe

what never happened, thinking the ſordid arts of baſe lucre more beneficial to him, than his connection with me. I will now bring the teſtimony of a man, to whom he made an application, and promiſed, on condition that he might partake of the inheritance, to contrive a will in his favour. EVIDENCE.

What name then, judges, muſt be given to this man, who ſo readily, for his own profit, invents a falſity concerning the dead? This evidence too will abundantly convince you, that he produced this will, not without a compenſation, but for a ſtipulated reward. Such are the artifices which they employ in concert againſt me, for each of them imagines, that whatever he can filch from the poſſeſſions of Aſtyphilus will be clear gain, and as it were a gift of fortune.

Now that the will cannot be genuine, but that Cleon and Hierocles have conſpired to delude you, I have proved, as clearly as I am able; and I will proceed to demonſtrate, that even had I borne no relation to the deceaſed, yet our early and uninterrupted friendſhip would have given me a better claim to his inheritance, than Cleon and his ſon can produce for themſelves; for when my father Theophraſtus took the mother of Aſtyphilus in marriage from her brother Hierocles, ſhe brought her infant ſon to his

houſe, where he continued for a number of years, and was educated under my father's care: when, therefore, I was old enough to be capable of receiving inſtruction, I went with him to the ſame publick ſchool, as you ſhall hear from our friends, who know this to be true, and from the very maſters who inſtructed us both. DEPOSITIONS.

I will alſo prove, that my father cultivated the paternal eſtate of Aſtyphilus, and ſo conſiderably improved it by plantation and tillage, that he doubled its value: let the witneſſes come up. EVIDENCE.

When my brother then had proved his full age before the magiſtrate, he received his whole patrimony ſo juſtly and regularly, that he never once made the ſlighteſt complaint of his guardian: beſides, my father had given the ſiſter of Aſtyphilus in marriage to a man whom he highly approved; and this conduct, as well as the pains which he had taken in managing ſome other affairs, gave complete ſatisfaction to the young man, who thought that my father, by whom he was educated in his infancy, had afforded him the cleareſt proof of his care and affection. The circumſtances of his ſiſter's marriage ſhall be proved by perſons who were perfectly acquainted with them. WITNESSES.

Let me add to this, that my father conſtantly

took Aſtyphilus, together with me, to the ſhrines of his family, and even introduced him to the feaſts of Hercules, as the members of that fraternity will depoſe, in order to procure his admiſſion into their ſociety. EVIDENCE.

Revolve now in your minds, judges, the nature of my connection with Aſtyphilus: firſt, we were bred together from our childhood; and ſecondly, there never was the leaſt coolneſs between us, but he loved me with conſtant affection; as all our common friends and companions, whom I will call before you, will teſtify from their own knowledge. WITNESSES.

Can you believe then, judges, that Aſtyphilus, to whom Cleon was ſo extremely odious, and on whom my father had conferred ſuch benefits, would have adopted the ſon of his enemy, and given his eſtate away from his neareſt relations and benefactors? I ſhould not think it poſſible, if Hierocles were to produce ten ſuch wills; but ſhould inſiſt that I, as his brother and his deareſt friend, muſt have been the object of his benevolence, and not the ſon of Cleon: theſe men, indeed, have not the leaſt pretence for ſuggeſting that they were entitled to his favour, ſince they had no intercourſe with him while he lived, and neglected even to inter his body, but invaded his poſſeſſions, before juſt honours had been performed to his ſhade. Nevertheleſs, they

have the audacity to claim his eſtate, not only relying on the will, but even ſetting up a title as his kinſmen, becauſe Cleon was the ſon of his paternal uncle: to this argument, judges, you will pay no attention; for Cleon's father, as you before heard, was adopted by another family, and no man thus emancipated can ſucceed to the property, which he has relinquiſhed, unleſs he be allowed in due form of law to return into the houſe from which he came: and, as to the pretended adoption of Cleon's ſon, the relations of Aſtyphilus ſo firmly believe it to be a fiction, that they never would admit the boy to their table in the feſtival of Apaturia, but always diſmiſſed him when he came to demand his ſhare of the feaſt, as I will prove by undoubted evidence. DEPOSITION.

Now, juſtly weighing in your minds what each of us has depoſed, pronounce a ſentence agreeable to truth. Cleon, you find, aſſerts, that his ſon was adopted by Aſtyphilus; and that the will, which he produces, was made by the deceaſed: this I abſolutely deny, and alledge that I, who, as they know, am his brother, have a juſt claim to the whole inheritance. Beware then, judges, of appointing an heir to Aſtyphilus, whom he, when he was alive, would not have appointed; but let the laws, which yourſelves have enacted, be your guide in my cauſe:

by thoſe very laws am I protected, and requeſt you, judges (nor can any requeſt be more ſacred), to eſtabliſh my right of ſucceſſion to my brother. I have aſſerted that he never diſpoſed of his eſtate, and have confirmed my aſſertion by unanſwerable evidence: aſſiſt me then in this diſtreſs; and, if Cleon ſurpaſſes me in the powers of elocution, let not his talents avail him in defiance of juſtice and law; but exert your own underſtandings in the deciſion of this cauſe, ſince for no other end are you aſſembled, than that the audacious may not reap advantage from their boldneſs, but that the timid and unexperienced may ſupport their juſt claims, with a full conviction that your minds are intent upon nothing but the truth. Let your verdict, therefore, judges, be favourable to me; and conſider what evils will enſue from your decree in favour of Cleon: firſt, you will ſend to the monument, and the ſhrines of Aſtyphilus, thoſe men who were objects of his abhorrence; next, you will diſregard the commands of his father, who gave them with his laſt breath, and will convict the deceaſed of conſummate folly; (for who that hears ſuch a decree, will not believe, that a man who could adopt the ſon of his greateſt enemy had loſt his reaſon through illneſs, or that his ſenſes were impaired by poiſon?) and, laſtly, you will ſuffer me, who was nurſed

and educated with my brother, to be ſtripped of my fortune by this Cleon. I ſupplicate, therefore, and implore you, judges, to decide the cauſe in my favour; for thus will you give ſatisfaction to the departed ſpirit of Aſtyphilus, and will defend me from a flagrant injury.

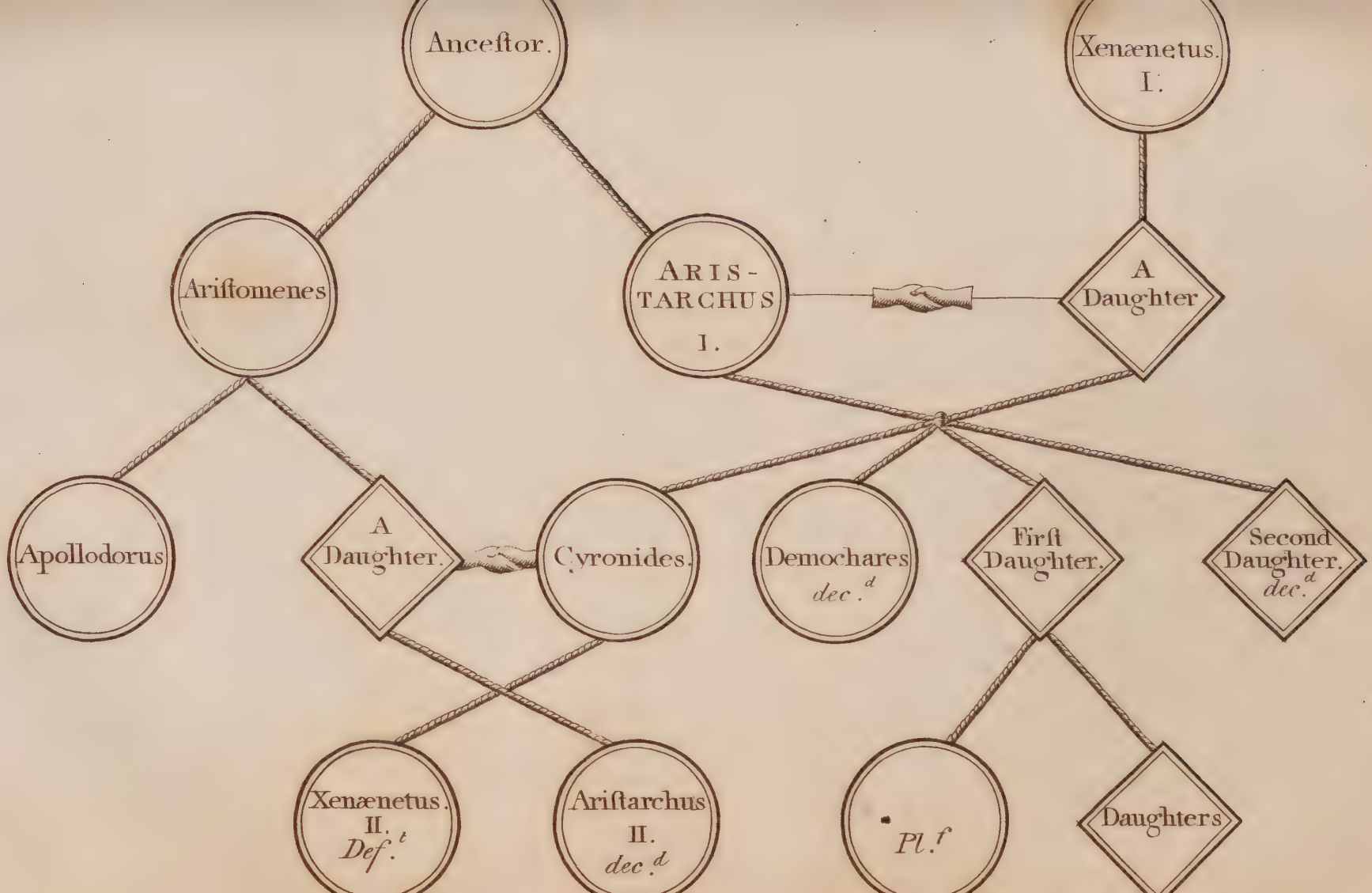
SPEECH THE NINTH.

ON THE ESTATE OF ARISTARCHUS.

THE ARGUMENT.

ARISTARCHUS having two sons, Cyronides and Demochares, and two daughters, one of whom was the mother of the complainant, emancipated Cyronides, and caused him to be appointed representative of his maternal grandfather Xenænetus; leaving his other children to inherit his own estate. Demochares died without issue, and one of his daughters also died childless; so that the whole fortune of Aristarchus came by law to the complainant's mother, who was the surviving daughter.

After the death of Aristarchus, his brother Aristomenes, who was lawful guardian to his children, gave his own daughter in marriage to Cyronides, and engaged to support his claim to all the possessions of his father, by whom he had been emancipated. Cyronides had a son, who was named Aristarchus, and was admitted by Aristomenes to the house and property of his grandfather, as if this had been conformable to the will of the deceased. This grandson died young, having by will left the


Anceſtor.
Xenænetus. I.
Ariſtomenes
ARIS-TARCHUS I.
A Daughter
Apollodorus
A Daughter.
Cyronides.
Demochares dec.d
First Daughter.
Second Daughter. dec.d
Xenænetus. II. Def.t
Ariſtarchus II. dec.d
Pl.f
Daughters

fortune to a brother of his, named Xenænetus.

While these things were transacted, and the younger Xenænetus possessed the estate of the elder Aristarchus, the son of the surviving daughter before-mentioned brought his bill of complaint, insisting that he alone ought justly to take the inheritance; that Cyronides was wholly excluded by his emancipation; that the deceased, having a legitimate son, Demochares, could not legally have adopted another by his will; and that Demochares himself, being under age, was disabled, as well as his sister who died, from introducing a son by adoption to their father's family: so that the admission of the younger Aristarchus to the possessions of the elder being illegal, the will of the person so admitted was invalid; since he could not transfer to another what he had not legally obtained. Isæus contends, therefore, that this last-mentioned will being set aside, the property devolves of course to the complainant, who represents the legitimate daughter of the elder Aristarchus. The speech is argumentative; and the cause turns upon the validity of such a will, and the comparative merits of both claimants.

SPEECH THE NINTH.

The Grandſon of Ariſtarchus againſt Xenænetus.

I CANNOT help wiſhing, judges, that as this Xenænetus has been taught to ſpeak falſely with confidence, I on my part were able to declare the truth in this cauſe with equal boldneſs; for then, I am perſuaded, you would ſpeedily determine, whether we are unreaſonable in claiming the fortune in diſpute, or they unjuſt in withholding it ſo long from the rightful heirs; but at preſent, judges, the conteſt between us is by no means equal, ſince theſe men have ſuch powers in ſpeaking and ſuch activity in ſoliciting favour, that they have often been employed to manage the cauſes of others; whilſt I, who have been ſo far from acting for other men, that I never before have pleaded even for myſelf, can only reſt my hopes on your attention and indulgence.

I was compelled, judges, when I found it impoſſible to obtain redreſs without litigation, to declare on my examination before the magiſtrate, that my mother was the daughter of Ariſtarchus and ſiſter of Cyronides, and thus to en-

ter her name on the publick tables: nor will this make it leſs eaſy for you to decide the cauſe; for the ſingle point, which muſt be determined by law, is, Whether Ariſtarchus left his own property to the defendant, or diſpoſed of an eſtate which he had no right to poſſeſs? This is the true queſtion; for the laws permit every one to leave his own as he pleaſes, but have given no man a power to part with the poſſeſſions of another: if therefore you will hear me with benevolence, I will firſt inform you, that this eſtate belonged not originally to theſe aſſociates, but was my mother's patrimony; and will afterwards endeavour to convince you, that Ariſtarchus occupied it by no law whatever, but, in violation of every law, conſpired with his confederates to injure my mother. I will begin my narration from that period, whence you will be able to form the cleareſt conception of the whole caſe.

Ariſtarchus, judges, of Sypalletus married a daughter of Xenænetus the Acharnean, and by her had two ſons, Cyronides and Democharés, with as many daughters, one of whom was my mother: now Cyronides, the father of the defendant, and of the other Ariſtarchus, who wrongfully kept poſſeſſion of this eſtate, was received by adoption into another family, and conſequently waived all right to the fortune of

that houſe, from which he was emancipated. On the death of old Ariſtarchus, his ſon Democharés inherited his poſſeſſions; but, he and his other ſiſter dying without iſſue, my mother became ſole heireſs of the family eſtate; yet, although her neareſt relation ought to have married her and defended her property, ſhe was treated on that occaſion, judges, with extreme iniquity; for, Ariſtomenes the brother of Ariſtarchus, having a ſon and a daughter, and having the option either to take my mother himſelf, or to cauſe her by an adjudication of the court to be wedded to his ſon, did neither one nor the other, but gave his own daughter, together with my mother's whole fortune, to Cyronides, of whom this Xenænetus and Ariſtarchus, now deceaſed, were the ſons. After this he was pleaſed to give my mother in marriage to my father; and, Cyronides dying, the brother of Xenænetus was let into poſſeſſion as the adopted ſon of the elder Ariſtarchus, whoſe name he bore: now that ſuch conduct can be juſtified by no law, I will prove to you, judges, by many deciſive arguments; and, firſt, I will produce evidence, that Cyronides was emancipated and adopted into the family of old Xenænetus, in whoſe houſe he died; next, that Ariſtarchus, the firſt purchaſer of this eſtate, died before his ſon Democharés; that Democharés and his younger ſiſter both

died infants; and, by conſequence, that the inheritance came legally to my mother. Call up the witneſſes. EVIDENCE.

This is our title, judges, to the eſtate in queſtion; for, Cyronides being adopted into the family of Xenænetus, it deſcended from Ariſtarchus to his ſecond ſon Demochares, and from him to my mother, who was one of his ſiſters: but, ſince they ſet no limits to their audacity, and preſume to claim our property without any colour of juſtice, it is neceſſary to convince you, that the younger Ariſtarchus was admitted to the ward of the elder by no legal courſe whatever; for, when you are apprized of this, you will clearly apprehend, that no man can lawfully deviſe an eſtate, which he unlawfully poſſeſſed.

None of you, I believe, can be ignorant, that teſtamentary adoptions are legal only when the teſtator has expreſsly appointed and nominated the perſon adopted: now, if any one ſhould ſay, that Ariſtarchus made ſuch an appointment, he would ſpeak untruly; for, while Demochares, his legitimate ſon, was living, he neither could have the inclination, nor would he by law have the power, to adopt another; or, if they aſſert, that, after the death of Ariſtarchus, ſuch an adoption was made by Demochares, they will

again ſpeak falſely; for an infant is not permitted to make a will, the law expreſsly ordaining that neither an infant nor a woman ſhall do an act for the diſpoſal of a ſum exceeding the price of one buſhel of barley: but it has been proved, that Ariſtarchus died before his ſon Demochares, and that he too died not long after; ſo that even on a ſuppoſition of their having made their wills, which they never did make, it would not have been lawful for the younger Ariſtarchus to inherit theſe poſſeſſions. Read the laws, by which both the father and the ſon are forbidden, in ſimilar circumſtances, to diſpoſe by will of their eſtates. THE LAWS.

It is then apparent, judges, that Cyronides had no power to appoint an heir to his father; he might indeed, if he had left a ſon of his own in the houſe of Xenænetus, have returned to his father's family; but, if they aſſert that he did return to it, they will ſpeak againſt truth. Thus, if they inſiſt that any third perſon appointed the deceaſed as heir to his grandfather, ſuch an appointment would have been illegal; and if they urge, that his grandfather himſelf adopted him, they will not be able to produce any law by which ſuch an adoption can be juſtified; but, not to expatiate on what they may probably alledge, it will appear ſtill more glar-

ingly to you from what they actually do alledge, that they are in poſſeſſion of my mother's inheritance againſt law and againſt decency.

It is certain, that neither Ariſtomenes, nor his ſon Apollodorus, to one of whom my mother ſhould have been given in marriage, had any ſuch right as that for which they contend; for it would be ſtrange, when neither of thoſe men, had my mother been married to one of them, could legally have diſpoſed of her eſtate (ſince the law gives the fortune of an heireſs to her ſons in the ſecond year after their age of puberty) if yet, when they diſpoſed of her to another, they might nominate an heir to her poſſeſſions: harſh and abſurd, indeed, would be ſuch a conſtruction of the law. Yet more, her own father, even had there been no male children, could not have left his eſtate without her; for the law permits a man, who has no ſons, to deviſe his property to whom he pleaſes, provided that the deviſee take his daughter in marriage. And ſhall a man, who neither thought proper to marry her himſelf, nor bore any nearer relation to her than that of couſin, be allowed, in defiance of all laws, to appoint an heir to her fortune? Can ſuch an appointment be valid? Who among you can perſuade himſelf of its validity? For my own part, judges, I am fully

convinced, that neither Xenænetus, nor any other mortal, can diſprove my mother's right to this eſtate, which deſcended to her from her brother Democharès; but, if they have the confidence to inſiſt upon that point, command them to produce the law, by which the adoption of Ariſtarchus can be ſupported, and to declare who adopted him: this at leaſt will be juſt; but I well know that they can produce no ſuch law.

Now that the property in diſpute was my mother's at firſt, and that ſhe was unjuſtly deprived of it by theſe plunderers, has been, I think, ſufficiently demonſtrated by the arguments which have been adduced, the evidence which has been laid before you, and the laws which you have heard: indeed the confederates themſelves appear ſo perfectly conſcious of their wrongful intruſion, that they reſt not their argument ſolely upon the legality of Ariſtarchus's admiſſion to the ward of his grandfather, but add, that his father had a lien upon the eſtate for expenſes incurred by him in defending a ſuit concerning it; ſo that, if their claim ſhould be proved unjuſt on the firſt ground, they may ſeem on the ſecond at leaſt to have juſtice on their ſide. Yet that there is no truth, judges, in this aſſertion, I will convince you by the ſtrongeſt argu-

ments; for, had the fortune been really incumbered, as they alledge, they would not have diſburſed their money to pay the debt: it was not in fact their buſineſs; but thoſe, who might have demanded my mother in marriage, ſhould have deliberated on that affair; nor would they have appointed Ariſtarchus to ſuch an inheritance, from which they could have received no kind of benefit, but muſt have ſuſtained a conſiderable loſs. Moſt people, indeed, when their circumſtances are diſtreſſed, uſually emancipate their ſons, and remove them to ſome other family, that they may eſcape the ignominy of their father's misfortune; and did theſe men diſengage themſelves from their own families, and paſs by adoption into a houſe burdened with debts, that they might loſe even what before belonged to them? It cannot be: no; the eſtate was clear from incumbrances, and deſcended regularly to my mother; but my adverſaries, eager for gain, have injured her, and invented theſe palpable lies to cover their iniquity.

Some one among you, judges, may be ſurprized, when he reflects on the time, which we ſuffered to elapſe, ſince we were diſpoſſeſſed of this eſtate, without aſſerting our right to it in a court of judicature, and may aſk why after ſuch

an interval we are at length induced to ſet up our title: now, though I cannot but think it unjuſt, that any man ſhould loſe his property, if either through inability or neglect he has omitted to make his claim (for the time is not to be conſidered, but the juſtice of his demand), yet even for this delay, judges, we can aſſign a very reaſonable cauſe; for my father, having engaged himſelf to my mother, married her with a portion, and thus waived her right as heireſs; while theſe men, therefore, enjoyed the fruits of her eſtate, it was not in his power to commence a ſuit; and when at my mother's requeſt he called them to account, they threatened to have her adjudged to them, unleſs he would be ſatisfied to take her with the portion; but, rather than be deprived of her, my father would have permitted them to poſſeſs an eſtate of twice the value, and for this reaſon he neglected to prefer his complaint againſt them. After this came the Corinthian war, in which both he and I were obliged to enter the field, ſo that neither of us was able to attend a court; and when peace was concluded, I had the misfortune of being a debtor to the public revenue; nor would it then have been eaſy for me to have contended with ſuch antagoniſts: ſo juſt are our excuſes for this delay; but it is now expedient, that my

opponents ſhould declare, by whoſe gift Ariſtarchus poſſeſſed the eſtate, by virtue of what law he was admitted into his grandfather's ward, and for what reaſon my mother was not ſole heireſs of all his poſſeſſions. Theſe are the queſtions which your ſuffrages muſt decide; not, whether we aſſerted our title a little later than the uſual time; and, if they are unable to diſprove our right, you cannot with juſtice avoid pronouncing a ſentence in our favour: that they will be unable to diſprove it, I am firmly perſuaded; for it is not eaſy for them to contend againſt both law and reaſon; but they will endeavour to move your pity, by telling you in a mournful ſtrain, that Ariſtarchus was a brave man and periſhed in battle, whence they will take occaſion to inſiſt on the cruelty of ſetting aſide his teſtament. I too, judges, am perfectly ſenſible, that, if any man diſpoſes by will of his own, ſuch will ought to be binding; but that no diſpoſition of another man's property ought in like manner to be ſubſtantiated: now this fortune appears to have been ours, not the teſtator's; ſo that, if they have recourſe to this argument, and bring evidence of Ariſtarchus's will, oblige them to ſhow, as juſtice requires, that he legally deviſed his own; for it would be the hardeſt thing imaginable, if Cyronides, and thoſe who claim by deſcent from him, ſhould not only have inhe-

rited an eſtate of above four talents from old Xenænetus, but ſhould alſo ſeize this additional inheritance, whilſt I, who am deſcended from the ſame common anceſtor with Cyronides, am deprived of my mother's fortune, to which ſhe had an indiſputable right, eſpecially when they cannot ſhow in themſelves even a colourable title: yet, as every poſſeſſor of an eſtate, whoſe right is conteſted, muſt declare who was the mortgagor or vendor of it, or prove that he recovered it by a decree of the court, ſo ſhould theſe men, judges, have entitled themſelves to your verdict, by ſhowing in what manner their right accrued, and not by ejecting my mother before any trial from her paternal inheritance.

I ſuſpect indeed, that this Xenænetus is not ſatisfied with having laviſhed the wealth of Ariſtomenes in his unnatural exceſſes, but wiſhes to ſpend my fortune alſo with the ſame diſgraceful profuſion; whilſt I, judges, with a contracted income, having given my ſiſter in marriage with as large a portion as I could afford; and, conſcious of having conducted myſelf with decency, complied with the laws of my country, and ſerved in its wars, have applied to this tribunal, that I may not be wholly ſtripped of my poſſeſſions.

To recapitulate the whole: I have proved that Cyronides, the father of theſe men, was

emancipated and removed into another family, from which he never returned, that the father of Cyronides and of my mother let this eſtate deſcend to his ſon Demochares, and that, he dying childleſs, it devolved upon my mother.

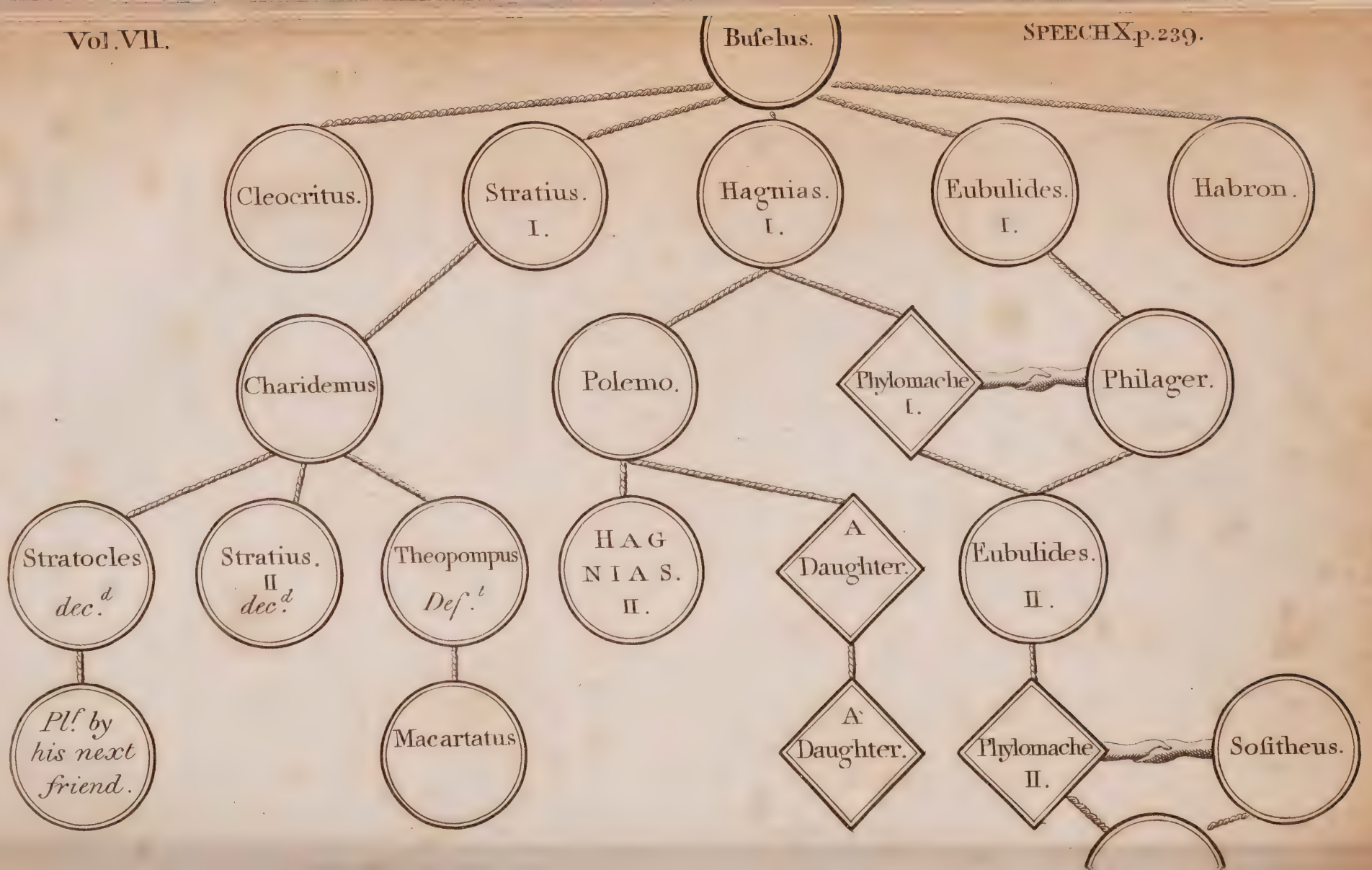
SPEECH THE TENTH.

ON THE ESTATE OF HAGNIAS.

THE ARGUMENT.

AN attentive inspection of the annexed pedigree will give a clearer idea of this interesting cause, than can be conveyed by words: it will there be seen that Stratius and the elder Hagnias were brothers, Charidemus and Polemo first cousins; and that HAGNIAS, whose estate is in question, was second cousin both to Stratocles, whose son is the complainant, and to Theopompus, whom Isæus defends.

On the death of HAGNIAS, first his niece, and then his half-brother Glauco, took possession of his effects, on pretence that the deceased had left them by will to his niece, with a remainder to Glauco; but Philomache, the daughter of his cousin Eubulides, proved the will to be forged, and obtained a decree for the estate. Theopompus then disputed the title of Philomache, and the former decree was reversed in his favour; but the son of Stratocles, who was in ward to Theopompus, claimed a moiety of the estate, alledging, that he had an equal right with his uncle. This was not a private suit, but a public prosecution, or information, against a guardian for injuring his ward.


Buſelus.
Cleocritus.
Stratius. I.
Hagnias. I.
Eubulides. I.
Habron.
Charidemus
Polemo.
Phylomache I.
Philager.
Stratocles dec.d
Stratius. II dec.d
Theopompus Def.t
HAGNIAS. II.
A Daughter.
Eubulides. II.
Plf. by his next friend.
Macartatus
A Daughter.
Phylomache II.
Sofitheus.

SPEECH THE TENTH.

Theopompus againſt the Son of Stratocles.

I BEGIN my defence, judges, with a recital of the laws, becauſe my adverſary has falſely contended that, by the firſt of them, the ſon of Stratocles has a juſt claim to a moiety of this eſtate which was left by my ſecond couſin Hagnias. You will obſerve that, when a man dies inteſtate and childleſs, the law firſt calls to the ſucceſſion the brothers of the deceaſed, if he had any by the ſame father, and the children of thoſe brothers, for they are related to him in the neareſt degree; if he had no brothers, his ſiſters by the ſame father, and their children, are his ſucceſſors; on failure of theſe alſo, thoſe in the third degree are called, and they are the firſt and ſecond couſins of the deceaſed by the father's ſide: if theſe too fail, the law returns to the firſt degree, and gives the inheritance to the brothers or ſiſters by the ſame mother, and to the other kinſmen on the maternal ſide, in order as thoſe on the paternal ſide would have inherited. The legiſlator preſcribes theſe rules of ſucceſſion, and limits theſe degrees in terms

more conciſe than thoſe which I uſe; but his intention is clearly the ſame: now this boy is not related to Hagnias in one of theſe degrees, but is wholly excluded; and, that you may form a diſtinct idea of the point which you muſt decide, let my antagoniſt ſhow, without ſuperfluous words, in which of the degrees juſt mentioned the boy is related to the laſt owner of this eſtate; for, if he can prove his relationſhip in any one of them, I willingly allow that half of the inheritance belongs to him; but, if nothing of this kind can be ſhown, will he not clearly convict himſelf of having calumniated me, and attempted to delude you in defiance of the law? I will, therefore, bring him up to your tribunal, and interrogate him, as the heads of the law are read by the officer; for thus will you ſoon be informed, whether, or no, this youth has any claim to the fortune of Hagnias.

Come, thou who art ſo ſkilful in accuſing others, and in perverting the laws; and do you *(to the clerk)* take the law and read. THE LAW.

There ſtop.—Now let me propoſe a few queſtions to my adverſary: Is the boy, whom you ſupport, the brother of Hagnias? No.—Or his nephew either by his brother or his ſiſter? No.—Or his firſt or ſecond couſin either on his father's ſide or on his mother's? In which of thoſe degrees, I ſay, that are legally called to the

ſucceſſion, was he related to the deceaſed?—Anſwer me not that he is my nephew; for my eſtate is not now in diſpute, as I am living; but had I died childleſs, and had there been a ſuit concerning my property, then would ſuch an anſwer have been proper. You now pretend, that the ſon of Stratocles has a right to a moiety of this eſtate; it is therefore incumbent on you to name the degree, in which the claimant was related to Hagnias. His anſwers, judges, are foreign to the purpoſe, and apply to every thing but that which you wiſh to know: yet a man, who intends to do juſtice, ought not to heſitate, but to ſpeak directly, and not only to anſwer with candour, but upon oath, and to produce evidence of the fact which he aſſerts, that you may the more readily believe his aſſertion; but now ſo ſhameleſs is his impudence, that, without giving one explicit anſwer, without calling a ſingle witneſs, without taking an oath, without citing any laws, he has hopes of perſuading you to convict me, againſt all law, in a cauſe which you are ſworn to decide according to the laws of your country. In this moſt iniquitous way of proceeding I will by no means imitate him, but will openly evince my relation to the deceaſed, will explain the grounds on which I claim his eſtate, and will demonſtrate to your general ſatisfaction, that both this

boy, and all thoſe who have before contended againſt me for the ſame property, are utterly excluded from the limits of ſucceſſion: but it will be neceſſary to relate from the beginning what has happened in our family, that you may diſtinctly perceive the weakneſs of their claim, and the ſolidity of mine.

Myſelf and Hagnias, judges, and Eubulides, and Stratocles, and Stratius, whoſe ſiſter was the mother of Hagnias, were the children of three firſt couſins; for our fathers were the ſons of as many brothers: now Hagnias, when he was preparing to embark on an embaſſy concerning ſome affairs of great advantage to the ſtate, made his will, in which, inſtead of leaving his fortune, in caſe of any accident, to us his neareſt relations, he appointed his niece to be his heireſs, and ordered that, on her deceaſe, his eſtate ſhould go to Glauco, his half-brother. Some time after his death, both Eubulides died, and the niece whom Hagnias had adopted; upon which Glauco took poſſeſſion of the inheritance by virtue of the limitation to him; nor did we then conceive it juſt to conteſt the validity of the will, but candidly acquieſced in it, and thought that the intention of the deceaſed ought to be effectuated: yet Phylomache, the daughter of Eubulides, aſſiſted by her confederates, claimed the eſtate, and by ſurprize ob-

tained a ſentence in her favour againſt the claimants under the will, although ſhe was not in the regular line of ſucceſſion; but ſhe hoped, it ſeems, that we would not oppoſe her, as we had not diſputed the teſtament of Hagnias: we, however (I mean Stratius and Stratocles and myſelf) perceiving that the inheritance was now open to the next of kin, were preparing to inſtitute a ſuit: but, before our claim could be regularly and formally made, both Stratocles and Stratius died, leaving me the only ſurviving ſecond couſin of Hagnias, to whom the law gives the right of ſucceſſion, after the death of all thoſe who ſtood in the ſame degree of conſanguinity. Who will prove to you, that I am thus entitled to the eſtate, and that the children of my brothers, of whom this boy is one, are entirely excluded? The law itſelf; for it is confeſſed on all ſides that the inheritance goes to the ſecond couſins on the father's ſide, but whether it can deſcend to the children of thoſe couſins, is now to be conſidered. Take the law, and read it to the jury. THE LAW. *But if there be no kinſmen on the father's ſide ſo near as the ſecond couſins, then let thoſe on the mother's ſide ſucceed to the eſtate in the ſame order.*

You muſt remark, judges, that the legiſlator hath not ſaid, *if there be no nearer kinſmen on the father's ſide*, let the *children* of the ſecond cou-

ſins have the eſtate, but has given it, on failure of relations in the ſame degree with my brother and me, to thoſe on the maternal ſide, to the brothers or ſiſters and their children, and ſo to the reſt, as it has been before obſerved, whilſt our children are completely barred from claiming any ſhare: ſince then, had I been dead, the law would not have called them to the ſucceſſion, how can they conceive, that, whilſt I am living and legally poſſeſſed of the property, they can have any title to the inheritance? It cannot be: ſince the others, therefore, whoſe fathers were in the ſame degree with me, have not the ſhadow of a title, no more has this boy, whoſe father Stratocles was my brother. It is then moſt abominably iniquitous in my adverſaries, when the laws have ſo explicitly given me the ſucceſſion, and ſo manifeſtly excluded all others, to load me with calumny; and, when I put in my claim, neither to controvert my right, nor to give pledges of proving their own (although that was the time for contending with me, had juſtice been on their ſide): but now to haraſs me in the boy's name, and expoſe me by a publick proſecution to the greateſt of all dangers, and, without accuſing me of having embezzled the property, which belongs confeſſedly to my ward, and which, if I had unjuſtly or diſhoneſtly laviſhed, as they have done, I ſhould

have deſerved this rigour; without pretending, I ſay, to bring any ſuch charge, to attack me with ſo much violence for an eſtate, which you, judges, having permitted any one who pleaſed to litigate my claim, decided ſolemnly to be mine, is an exceſs of audacious iniquity.

What has already been urged, judges, has, I believe, convinced you, that I neither injure this boy in any reſpect, nor am in the leaſt degree guilty of the crimes which they impute to me; but I think you will be able to form a more accurate judgement. when you have heard in what manner I claimed this eſtate, and for what reaſons my claim was determined to be juſt. At the time, judges, when I began the ſuit, neither did my preſent accuſer think proper to give pledges of ſupporting the title of this youth, nor had the children of Stratius, who ſtand in the ſame degree with him, any idea of oppoſing me, but all imagined that my right was on no pretence to be diſputed; nor would this very man have now moleſted me, if I had ſuffered him to perſiſt in plundering the boy's effects at his pleaſure, and had not given a timely check to his rapaciouſneſs: this part then of the family, as I juſt informed you, being perſuaded that they were not in the order of ſucceſſion, remained inactive; but the agents of Phylomache, the daughter of Eubulides, who was in an

equal degree with the ſon of Stratius, together with thoſe to whoſe care the mother of Hagnias was committed, had the boldneſs to contend with me; yet ſo uncertain were they what title to ſet forth in their bill of complaint, that Phylomache, who was in poſſeſſion of the eſtate, and the advocates, who ſupported her claim, not daring to diſcloſe the truth, and having aſſerted a palpable falſity, were eaſily confuted by me; while the ſupporters of Hagnias's mother, who, being the ſiſter of Stratius, was in the ſame degree with myſelf, but was excluded by the law, which gives a preference to males, waived that part of her pretended title, and, thinking to overpower me with their arguments, inſiſted that ſhe was the mother of the deceaſed; a relation, I admit, the neareſt of all by nature, but not recogniſed by law among the degrees of ſucceſſion: having therefore proved myſelf to be a ſecond couſin, and having ſhown the claims of theſe two women to be groundleſs, I obtained your decree; nor did it avail the firſt of them to have triumphed over thoſe who relied on the will, nor the ſecond, to have given birth to the laſt poſſeſſor of the eſtate; but ſo high a value did the juries ſet both on their oaths and on juſtice, that they eſtabliſhed by their ſuffrages the legality of my title. If then I prevailed in this manner againſt theſe female claimants, by

demonſtrating that they could not legally ſucceed, if this falſe accuſer durſt not at that time claim a moiety of the inheritance for the ſon of Stratocles, if the children of Stratius, who ſtand on the ſame ground with him, do not even now think it juſt to conteſt my right, if I am in poſſeſſion of the lands and money by virtue of your ſentence, and if I prove that my adverſary cannot now ſhow in what legal degree the boy was related to Hagnias, what elſe, judges, have you to learn? What further can you deſire to hear in this cauſe? I perſuade myſelf, that what has been ſaid will be fully ſufficient for men of your ſolid underſtanding. Yet this calumniator, who ſcruples not to circulate whatever his malignity can ſuggeſt, and flatters himſelf that his iniquity will continue uncenſured, had the confidence to accuſe me of many bad actions (for which defamation I ſhall, perhaps, call him to account), and particularly of having made a bargain with Stratocles, when we were preparing our ſuit, concerning a partition of the inheritance; a bargain which we alone, of all perſons who were going to law, could not poſſibly have made: the daughter of Eubulides, indeed, and the mother of Hagnias, who claimed by two diſtinct titles, might have agreed, when they thought proper to oppoſe me, that whoever was ſucceſsful ſhould reſign a ſhare to the other, for a ſeparate

urn was placed on the ballot for each of them; but our caſe was totally different; for as our title was preciſely the ſame, although each of us claimed a moiety, a ſingle urn would have ſerved for us both, ſo that it was impoſſible for one to ſucceed and the other to fail, ſince the danger was common to both of us: no agreement then of this nature could have been made by us; but, when Stratocles, before we had put in our reſpective claims, was prevented by death from proſecuting his ſuit, and his ſon was diſabled by the law from renewing it, ſo that the whole ſucceſſion devolved upon me as laſt in order, and it became neceſſary to evict the wrongful poſſeſſors of the eſtate, my accuſer invented this idle calumny, expecting eaſily to delude you by his falſe pretences. That no ſuch compact, indeed, could have been made to any purpoſe, but that the fixed and regular courſe of proceeding wholly prevented it, the law itſelf will evince; which take and read to the court. THE LAW. Does this law ſeem to have put it in our power to make ſuch a compromiſe? Does it not render it impracticable, even if an agreement had been idly formed, by ordaining expreſsly that each party litigant ſhall ſue for his diſtinct portion, but that a ſingle urn ſhall ſerve for thoſe who claim under the ſame title, and that all ſuch cauſes ſhall be conducted in a

ſimilar manner? Yet has this man, not regarding the poſitive direction of the law, not conſidering the impoſſibility of ſuch a ſcheme, had the boldneſs to make this heavy charge againſt me without either truth or reaſon; nor has he been contented with this, but has aſſerted the moſt inconſiſtent things imaginable, to which, judges, I requeſt your ſerious attention.

He avers, that I engaged to give the boy a moiety of the eſtate, if I prevailed over thoſe who were in poſſeſſion of it; yet, if he had a right to ſuch a portion, by nearneſs of blood, as my adverſary pretends, what occaſion was there for ſuch a promiſe on my part? If they ſpeak truly, he had an equal power with me of exhibiting a bill for his moiety; and, if he had no kind of title as next of kin, what could poſſibly have induced me to make ſuch an engagement, when the law clearly gave me the whole eſtate? Could not I have put in my claim without obtaining their conſent? This they cannot ſay; for the law permits any man to claim a vacant inheritance. Had they any evidence then of my title, by ſuppreſſing which they might have prevented a decree in my favour? No ſuch evidence was neceſſary, as I claimed by deſcent and not under a will. If it was impoſſible, therefore, for Stratocles, while he lived, to make any compromiſe with me, if he could not leave any part of theſe ef-

fects to his ſon, as he had no decree, and the property never veſted in him, if it is highly improbable, that I ſhould have promiſed to give the boy a moiety, let your verdict on this day ſubſtantiate my juſt claim to the whole; and, if theſe confederates never inſtituted a ſuit for this eſtate, nor ever thought proper to contend againſt me, can you poſſibly give credit to their allegations? I think you cannot: but as you may reaſonably be ſurprized, that they neglected at that time to demand their moiety, my opponent aſſerts, that my promiſe of reſigning a ſhare prevented them from attacking the other parties, and that they could not legally enter into a conteſt with me, becauſe an orphan cannot bring an action againſt his guardian; both which aſſertions are falſe; for neither can they produce a law, which would have precluded my ward from aſſerting his claims (ſince the laws would by no means have reſtrained him, but, as they allow a criminal proſecution againſt me, ſo they give both me and him a mutual right of maintaining civil actions), nor were they deterred from litigating the title of others by any promiſe of mine, but ſolely by their conſciouſneſs that no part of the inheritance juſtly belonged to them; and I am fully perſuaded, that, had I even ſuffered the boy to obtain judgement againſt me for a moiety, his advocates and friends would not

have attempted to take poſſeſſion of it, nor would they have permitted him to poſſeſs it, being perfectly aware of the danger; ſince, as they would have taken an eſtate without being in the legal order of ſucceſſion, thoſe in a nearer degree might inſtantly have applied to the court, and would infallibly have evicted them; for, as I began with obſerving, the law wholly excludes from the inheritance the ſons of relations in the ſame degree with me, and, if our degree fails, it calls to the ſucceſſion thoſe on the mother's ſide; ſo that Glauco, the half-brother of Hagnias, might have contended with them for the eſtate, in which contention they would have been ſo far from producing a better title, that they could have produced no title at all; or if Glauco had relinquiſhed his claim, the mother of him and of Hagnias might then have juſtly entered into litigation for the property of her ſon; and, as ſhe would have diſputed with perſons by no means admiſſible to the ſucceſſion, ſhe would clearly have obtained your ſentence for the moiety, both law and natural juſtice conſpiring in her favour. It is apparent, therefore, that my accuſer was not prevented from ſupporting the boy's demand either by my undertaking or by any law whatever; but, having by falſe pretexts and iniquitous calumnies contrived this information, and now having opened his pre-

tended charge againſt me, he has hopes of removing me from the guardianſhip and of transferring it to himſelf; imagining, that by this contrivance he ſhows his art and dexterity, ſince, if he fails of ſucceſs, he will ſuſtain no loſs, and, if he attains the object of his machinations, he will diſſipate with ſafety the poſſeſſions of this youth: you will not then liſten to the allegations of my adverſary, nor encourage the practice of proſecuting criminally, when the laws have provided a remedy by a civil action. So perfectly ſimple and ſo intelligible is the juſtice of my caſe: I will, therefore, in few words, recapitulate the heads of it, and having, as it were, depoſited them in your memory, will afterwards proceed to the other part of my defence againſt the remaining articles of accuſation.

What then is the real equity of my cauſe, and how ſhall I define it? This it clearly is: if my opponent avers, that the youth, from his relation to Hagnias, has a right to a moiety of his eſtate, let him ſue for it in the court of the Archon; and if you there decide in his favour, let him, as the laws direct, take what he demands; but, if he abandons this claim, and inſiſts upon my promiſe to divide the property, which I abſolutely deny, let him bring his action; and if he can prove any ſuch undertaking on my part, let him, as juſtice requires, have poſſeſſion of

his ſtipulated ſhare: again, if he alledges that my ward could not legally controvert my right or ſupport an action againſt me, let him cite the law, which reſtrains him, and if he can fairly produce it, let him on that ground obtain a verdict for his moiety. Yet farther, if he urges that it was neither competent to claim half the eſtate, nor to bring an action on the ſuppoſed promiſe, but that he has, nevertheleſs, a legal title, let him petition the Archon, to make a leaſe of the poſſeſſions in diſpute, and let the leſſee demand a moiety from me as belonging to the ſon of Stratocles. It would have been conſonant to juſtice, and agreeable to the directions of the law, to have followed any one of theſe methods; but it is neither juſt nor legal to haraſs me with a publick proſecution, when a private action was maintainable; and to expoſe even my perſon to danger, becauſe I will not reſign to this boy the property which I recovered by your ſuffrages from thoſe who unjuſtly poſſeſſed it: had I, indeed, managed any of thoſe effects, which are indiſputably his, with diſhoneſty and to his detriment, then would an information againſt me have been juſtifiable; but not when I am guilty of no other crime than a reſolution to keep my own eſtate.

Now, that my antagoniſt has not acted juſtly in any one of theſe inſtances, that he has not

ſpoken truth on any of the other points, but has fabricated this accuſation from ſordid motives of intereſt, warping the laws to his own ſenſe, and endeavouring to circumvent both you and me againſt equity and reaſon, I think, by all the Gods, that none of you can be ignorant; ſo that all further arguments on this head ſeem unneceſſary.

I obſerve, judges, that my adverſary principally dwells in his charge on a compariſon of the boy's fortune with mine, and repreſents his circumſtances as extremely narrow, but expatiates on the imaginary wealth, which he beſtows on me; accuſing me at the ſame time of ſuch avarice, that, although Stratocles left four daughters, I have not given a portion to any of them, even whilſt I am in poſſeſſion, as he aſſerts, of their brother's eſtate: this allegation I think it proper to refute; for he hopes, by his flouriſhing harangue, to raiſe your envy of me on account of my accumulated riches, and to excite your compaſſion for the children of my brother by deploring their pretended indigence. Of theſe facts, therefore, you muſt not be ignorant, but ſhall hear an exact ſtate of them, which will convince you, that my accuſer ſpeaks falſely on this head, as he has ſpoken on all the others; for I ſhould acknowledge myſelf to be the baſeſt of mortals, if Stratocles had died in want, and I

being wealthy had taken no care of his children; but if he left them a fortune both more ample and more ſecure than my own, ſo ample, indeed, that the girls were married with handſome portions, and the boy was made rich with what remained, if I have ſo diligently managed their affairs, as to raiſe their eſtate conſiderably, I cannot juſtly incur any cenſure for not reſigning my own property to augment theirs, but rather deſerve commendation for my prudence and induſtry: that all this is true, I can eaſily demonſtrate; and, firſt, I will apprize you of our reſpective fortunes, after which I will ſhow in what manner I have regulated the concerns of my nephew.

The patrimony of Stratocles and myſelf was ſuch as might content us, but not ſufficient to defray the expence of public offices: what proves it is, that neither of us received more than twenty minas with our wives, and ſo ſmall a portion is not uſually given to men of affluent fortunes; but it happened, that Stratocles had the addition of two talents and a half to his paternal inheritance; for Theophon, his wife's brother, died, having adopted one of his daughters, to whom he gave a farm in the diſtrict of Eleuſis worth two talents, together with ſixty ſheep, an hundred goats, his houſehold furniture, a fine horſe on which he rode when he

commanded a troop, and all his other effects; of which Stratocles having enjoyed the profits for nine whole years, left a fortune of five talents and a half, including his patrimony, but excluſively of what Theophon had given to his daughter. His eſtate was this: a farm at Thriæ, worth two talents and a half: a houſe at Melite, which has been ſold for half a talent, and another in Eleuſis, worth five minas; ſuch was the real eſtate of Stratocles, and theſe were the yearly rents of it; of the farm, twelve minas; of the houſes, three: he had, beſides, forty minas, out at intereſt, which, at the rate of nine obolus's a month for every mina, bring in annually ſeven minas and twenty drachmas; his whole income, therefore, was more than twenty-two minas. In addition to theſe he left furniture, ſheep, corn, wine, fruit; all which have been ſold for forty minas: he had alſo nine minas in money; and to them we may add his debts, which were called in, to the amount of near ten minas, and which the widow of Stratocles acknowledged before witneſſes to be the boy's property. I ſay nothing of the other effects which he left and which they conceal; but I ſpeak only of what appears, and what they are willing to admit. Call the witneſſes to all theſe facts. WITNESSES.

Such was the fortune of Stratocles, and even

larger than this; but I ſhall have ſome other occaſion to call them to account for the goods, which they have embezzled. Now what is my preſent eſtate? A farm in Œnea worth only fifty minas, and the inheritance of Hagnias amounting to two talents and fifty minas, which ſums together are leſs by one hundred and ten minas than the fortune of this youth: in this calculation too I have comprized the effects of my ſon, whom I emancipated, but have not added to the oppoſite ſide the property which Theophon left his daughter by adoption, and which may fairly be valued at two talents and a half; with that addition, which however I have not made, their eſtate will amount to eight talents. Moreover, the inheritance of Hagnias is not yet well ſecured to me, ſince ſome actions brought againſt the witneſſes for perjury will make it neceſſary for me to obtain a ſecond adjudication; but Stratocles left his poſſeſſions to his ſon uncontroverted and incontrovertible. Now let theſe depoſitions be read, to prove that my effects, together with thoſe of my ſon, amount to no more than what I have mentioned, and that actions are depending againſt ſome witneſſes in the cauſe concerning the eſtate of Hagnias. DEPOSITIONS.

Is the difference then trifling between our reſpective fortunes? Or rather, is it not ſo great,

that mine appears almoſt as nothing in compariſon of that which was left to the children of Stratocles? You cannot therefore give credit to the aſſertions of this man, who, although the boy has a flouriſhing eſtate of his own, has ventured to prefer ſo violent and ſo groundleſs a charge againſt me, and inſiſts on three eſtates, which he ſuppoſes me to have inherited, together with the vaſt wealth which I have amaſſed; all which, he ſays, I have ſecreted, that the publick may reap no advantage from my opulence. Such are the calumnies, which men, who have nothing equitable to alledge, are forced to invent, that they may confound the innocent with the boldneſs of their accuſations! You will all, however, teſtify for me, that my wife's two brothers, Chæreleos and Macartatus, were not in the rank of thoſe who bear expenſive offices, but were in circumſtances extremely contracted; you know, that Macartatus, having ſold his farm, bought a galley, which he armed, and ſailed in it to Crete; nor was this a private act, but of ſuch notoriety, that it was mentioned in the aſſembly of the people, where ſome were apprehenſive that the Lacedæmonias would conſider ſuch an expedition as a breach of the peace, and would conſequently renew hoſtilities. Chæreleos, indeed, left an eſtate in Proſpalta, not worth more than half a talent, and died be-

fore Macartatus, who ſoon afterwards periſhed in battle, where the veſſel and all the goods, with which he had embarked, were taken. When the Proſpaltian farm became the property of my wife, ſhe perſuaded me to emancipate one of my ſons, that he might continue the name and preſerve the family of her deceaſed brother Macartatus; not that my parting with that eſtate might exempt me from ſerving publick offices, for that made no difference, as I had ſerved before it came to me, and was among the readieſt to join in contributions, and to perform all the duties which you required of me; ſo that this informer moſt falſely charges me with being an uſeleſs, yet an opulent, citizen.

To conclude: I will ſum up the whole cauſe in one word by a propoſal, which you will allow, I am perſuaded, to be juſt: I offer to bring my whole eſtate, large or ſmall, into hotchpot with that of my ward, and when they are mixed together, let each of us fairly take a moiety of the aggregate value, ſo that neither of us may poſſeſs more than the other; but to this, I know, my adverſary will never conſent.

FRAGMENTS OF ISÆUS.

I.

From a Speech for Euphiletus against the Burgesses of Erchia.

THE ARGUMENT.

THE law, by which every borough in Attica was commanded to make a review of its members, and to reject all such as were not genuine citizens, gave the rejected a power of appealing to the courts of justice at Athens; but ordained, that, if the appellants failed in proving their right, they should be sold for slaves, and their property confiscated.

EUPHILETUS, the son of Hegesippus, had been disfranchised by the Erchians, in consequence of some private quarrel; and the dispute was at first referred to two arbitrators, who made an award in his favour; but, as the burgesses persisted in their refusal to admit him, he was not deterred by the rigour of the law from bringing his appeal. Isæus, who composed the speech for one of the appellant's brothers, began with an exact narrative of the whole transaction, and, having called witnesses in confirmation of it, supported their credibility with the following judicious observations.

FRAGMENTS.

* * * *

THAT Euphiletus, judges, is really our brother by the ſame father, you have heard proved by the teſtimony not of us only, but of all our kinſmen. Now conſider firſt what could have induced our father to invent a falſity, and to take by adoption a ſon, whom he had not by nature; for you will find, that all adoptions are made by men, who either have no children lawfully born, or are compelled by their poverty to adopt ſome wealthy foreigners, from whom they expect a pecuniary acknowledgment for the benefit conferred on them by making them citizens of Athens: but our father had neither of theſe motives; for we two are his legitimate ſons, ſo that he could not have been in want of an heir; nor had he any need of ſupport from this adopted ſon, ſince he poſſeſſed a handſome competence of his own; and it has, moreover, been proved to you, that he maintained Euphiletus from his infancy, conducted his education, and introduced him to the members of his ward, of all which the expenſes are by no means in-

conſiderable. It cannot then be thought probable, judges, that my father would have acted ſo unjuſtly without any proſpect of advantage: ſtill leſs can any mortal ſuppoſe me to be capable of ſuch conſummate folly, as to give falſe evidence in favour of another man, in order to make my patrimony diſtributable among a greater number; for I ſhould preclude myſelf from the power of contending on a future occaſion that he was not my brother; nor would any of you endure even the ſound of my voice, if, having taken a part in the preſent litigation, and given in evidence my nearneſs of blood to the appellant, I ſhould afterwards attempt to contradict my own teſtimony. It is reaſonable too, judges, for you to believe, that not only we, but all his other kinſmen, have ſpoken conformably to the truth; for you will firſt obſerve, that thoſe who married our ſiſters, would never have ſworn falſely in his favour; ſince their wives are only the daughters-in-law of his mother, and ſtep-mothers are in general apt to be at variance with the children of their huſbands; ſo that, even had Euphiletus been the child of any other man than our father, it is not to be imagined, that our ſiſters would have deſired their own huſbands to be witneſſes for the ſon of their ſtep-mother: conſider alſo, that the next witneſs, our maternal uncle, but in no

degree related to the appellant, would never have gratified His mother by making a depoſition, not only falſe, but, if Euphiletus had indeed been a foreigner, manifeſtly injurious to his own nephews.

Yet more:—Who among you, judges, can ſuppoſe Demaratus, and Hegemon, and Nicoſtratus, to be guilty of perjury; men, who, in the firſt place, will be found unblemiſhed with any bad imputation, and who, moreover, being intimately connected with us, and perfectly acquainted with our family, have reſpectively acknowledged upon oath the relation which they bear to Euphiletus? I would gladly, therefore, aſk even the moſt reſpectable of our opponents, by what other mode he could prove himſelf to be a citizen of Athens, unleſs by that which we have uſed in evincing the right of the appellant; for I cannot conceive, that he could ſuggeſt any other method, than to ſhow that both his father and his mother were citizens, and to adduce the teſtimony of his kinſmen in ſupport of his allegations. Were our adverſaries, indeed, expoſed to the danger of loſing their own franchiſes, they would think it juſt, that you ſhould attend to the depoſitions of their friends and relations, rather than to the defamatory charges of their accuſers; and now, when we give evidence exactly ſimilar to that which they would have

given for themſelves, ſhall they perſuade you to be deluded by their pretences, inſtead of believing the father of Euphiletus, myſelf, and my brother, the members of our ward, and all our kindred; eſpecially ſince the burgeſſes are in no dangerous ſituation, but keep up this conteſt to gratify their private reſentment; while we, who bear witneſs in the cauſe of our friend, are liable to animadverſion, if we ſpeak falſely, in a court of juſtice?

To theſe arguments, judges, I muſt add, that Euphiletus's mother, whom our antagoniſts allow to be a citizen, was ready to make oath before the two arbitrators in the Delphinian temple, that Euphiletus was the ſon of her and of our father; and who could poſſibly know this more ſurely than herſelf? Our father too, judges, who, next to her, muſt be ſuppoſed to have the moſt certain knowledge of his own ſon, both deſired at that time, and deſires now, to ſwear, that Euphiletus was his child by an Athenian citizen, whom he had lawfully married. Myſelf alſo, judges, who was juſt thirteen years old, as I before informed you, when the appellant was born, am ready again to depoſe that this Euphiletus is actually my half-brother. You will juſtly therefore be of opinion, that our oaths deſerve greater credit than the bare aſſertions of our opponents; for we, with

a perfect knowledge of the truth, are desirous of declaring it in favour of our kinsman, while they speak only what they have heard from his enemies, or rather what they have themselves invented: we too, judges, both laid before the arbitrators, and now lay before you, the testimony of his relations, who cannot be reasonably disbelieved; while they, when Euphiletus preferred his former complaint, as well against the burgesses of Erchia as against the mayor, who is since dead, and when the matter had been two years in a course of arbitration, were never able to produce a single witness of his being the son of any other man than of Hegesippus, which appeared so strong a mark of their false pretensions, that both arbitrators were unanimous in condemning them. Read now the proof of the former contest, and the event of it. EVIDENCE.

You have heard it proved, judges, that the award was unfavourable to our adversaries; and, as they would have relied on a contrary determination as a decisive argument, that our friend was not the son of Hegesippus, so we may fairly rely, as an argument no less decisive in his favour, on the determination, that the name of an Athenian had been injuriously expunged from the roll of his borough, in which it had first been properly inscribed. On the

whole, you have heard, I am convinced, very sufficient proof, that Euphiletus is really our brother and your fellow-citizen, and that he has been rejected with unjust indignity by the burgesses of Erchia.

II.

From a Speech for Eumathes.

THE ARGUMENT.

A slave, named Eumathes, had been regularly manumitted by Epigenes his master, and had opened a banker's house at Athens, where he resided in the capacity of a freed man, till Dionysius, his master's heir, claimed him as part of his estate, insisting either that there had been no manumission, or that it was irregular and void. This claim was opposed by a citizen who patronized Eumathes, and employed Isæus to compose his defence, of which all but the opening is unfortunately lost.

ON a former occaſion, judges, I gave my aſſiſtance, with good reaſon, to the defendant Eumathes, and will now endeavour, as far as I am able, to co-operate with you in preſerving him from ruin; but, leſt any of you ſhould imagine, that a forward petulance or ill-deſigned officiouſneſs have induced me to intereſt myſelf in his affairs, I intreat you to hear a ſhort explanation of my conduct. When I commanded a galley in the archonſhip of Cephiſodotus, and a ſtrong report of my death in a naval engagement had reached the ears of my friends, Eumathes, with whom I had depoſited ſome valuable effects, called together my relations, to whom he diſcovered the depoſit, and reſigned my property to them with the moſt rigorous exactneſs: in return for this honeſt behaviour, when I was wholly out of danger, I cultivated a ſtricter friendſhip with him, and, when he ſet up his bank, advanced him a ſum of money to increaſe his capital; and afterwards, when Dionyſius claimed him as a ſlave, I prepared to aſſert his liberty, having poſitive knowledge, that Epigenes had enfranchiſed him in open court.

III.

From a Defence of a Guardian againſt his Ward.

I SHOULD have been happy, judges, not only if I had eſcaped the ſcandalous imputations of laying ſnares for the property of others, and inſtituting ſuits with that view (imputations, which I am ſo perfectly conſcious of having never deſerved), but alſo, if my nephew, inſtead of graſping at my eſtate, would have taken due care of his own paternal fortune, which we juſtly ſurrendered to him, a fortune not inconſiderable, but ample enough to ſuſtain the burden of the moſt expenſive offices; for then he would have been eſteemed by all as a worthier man, while, by preſerving and increaſing his patrimony, he would have proved himſelf a uſeful citizen; but, ſince he has aliened part of it, and conſumed the reſt in a manner that gives me pain; ſince, relying on the number of his aſſociates and the preconcerted quirks of his advocates, he has invaded my poſſeſſions, I cannot but conſider it as a misfortune, that a kinſman of mine ſhould act ſo diſgracefully, and I muſt enter upon my defence, with all the activity in my power, againſt his direct accuſation and the impertinent calumnies which accompanied it.

* * *

Now this is the plan which I have followed, that the truth may be juſtly extorted from the ſlaves; while my adverſary, like a man deſirous only of circumventing, has recourſe to invectives and idle ſophiſms: were he willing, indeed, to obtain juſtice, inſtead of ſeeking to baffle and delude your minds, he would not act in this manner, but would come to a fair account, bring his own proofs, and thus interrogate me to every diſtinct article in my bill. How many taxes have you reckoned? So many, I ſhould have anſwered, or ſo many. To what ſum do they amount? To ſo much or ſo much. By what decrees of the people were they exacted? By theſe in my hand. Who received the money? Theſe witneſſes, who will ſwear to their receipt of it. He ought next to have examined minutely the number of the contributions, the ſums paid, the decrees, the receivers; and, if all appeared juſt, to have allowed my account; if not, to have proved what falſity or unfairneſs he could find in it.

IV.

From a Speech againſt the Members of his Borough, concerning a Farm.

I SHOULD principally have deſired, judges, to have ſuſtained no injury at all from any citizen whatever; and next, if an injury were inevitable, to have ſuſtained it from adverſaries, whom I might bring to juſtice without concern; but I now find myſelf reduced to a moſt afflicting alternative; for I am injured by my fellow burgeſſes, whoſe invaſion of my property it is not eaſy to paſs over without complaint, and whoſe attacks it is unpleaſant to repel with animoſity, ſince neceſſity obliges me to meet them often on occaſions of publick buſineſs. It is difficult alſo to contend with many antagoniſts, whoſe number alone has a conſiderable effect in giving them the appearance of ſpeaking truth; yet, relying on the merits of my caſe, and having ſuffered many enormous hardſhips, I conceived that I ſhould no longer decline attempting to obtain redreſs by your ſentence: give me therefore your indulgence, if, young as I am, I have ventured to open my lips in a court of judicature; for the ſenſe of my wrongs

compels me in this inſtance to depart from my former habits of reſerve; and I ſhall now endeavour to apprize you of the whole tranſaction, relating it from the beginning as conciſely as I am able.

V.

From a Speech in an Action of Debt.

* * *

THIS moſt abandoned of men, without producing thoſe witneſſes, before whom he aſſerts the money to have been paid, affects to think it juſt, that you ſhould give greater credit to them, who alledge that it was reſtored, than to us who deny that we have ever received it; yet it is well known, I believe to all, that, as in the flouriſhing ſtate of their father's fortunes, they would not have diſcharged the debt without compulſion, ſo after his diſgrace and total ruin we could not even have compelled them to diſcharge it.

* * *

NOTES ON ISÆUS.

PAGE 75. —of which they boldly aſſert that he was a creditor.] A ſlight variation in the text would make it neceſſary to alter the tranſlation of this paſſage; and, inſtead of the words above cited, to read—" which they aſſert that he had encumbered with debts:" it ſeems, however, more probable, that the deviſees pretended to have a lien on the paternal eſtate of the young men for ſome money due to the deceaſed, than that Cleonymus ſhould have mortgaged the property of his nephews, which we can hardly ſuppoſe that he had a power of doing.

76. Polyarchus] Reiſke has ſubſtituted Poliarchus, *ruling the city*, inſtead of Polyarchus, *with extenſive ſway*; but the firſt proper name appears to be unſupported by analogy, and the ſecond ſtands foremoſt in the liſt, which Xenophon has given us, of the thirty tyrants.

77. Cleonymus himſelf, when he recovered

from that illneſs, in which he made his will, declared, that he wrote it in anger.] The conſtruction, which Taylor propoſed, and which Reiſke thought unintelligible, ſeems to convey a clear and obvious meaning, as I have rendered it.

80. When one of the proper officers came to the door] The text has Archonides, a proper name, which I cannot help ſuſpecting, as the Archon is mentioned a few lines before; and the ſimilarity of ſound might have miſled the tranſcriber.

82. —one of the two moſt oppoſite things] I have ſupplied a chaſm in the original, as well as I was able, and have given the paſſage a tolerable ſenſe. Taylor ſuppoſes this ſpeech to be very imperfect, and imagines that half of it is loſt, becauſe the names of Pherenicus and Simo, who are not mentioned in the oration, occur in the argument; but it muſt be obſerved, once for all, that the Greek arguments are for the moſt part erroneous, and ſeem to have been written by ſome very ignorant grammarian.

84. —the Cyprian] Not a native of the iſland Cyprus, but member of a borough in Attica ſo named. Reiſke.

—poſſeſſed of three talents] I uſed to value the Attick talent, on the authority of Arbuth-

not, at 193l. 15s. and to think it conſiderably underrated by Tourreil and Prideaux; but my friend Mr. Combe, whoſe knowledge of ancient coins is no leſs exact than extenſive, has convinced me that Arbuthnot himſelf has undervalued it; for, by weighing with great accuracy thirty of the fineſt Athenian tetradrachms in the collection of Dr. Hunter, and by comparing the average of their weight with the ſtandard price of ſilver, he ſhowed to my full ſatisfaction, that the Attick drachma was worth about eight-pence half-penny, the ſixth part of which was the obolus, or one penny, and five twelfths; the mina therefore, which Solon raiſed from ſixty to a hundred drachmas, was equal in value to three pounds ten ſhillings and ten pence, and the talent, or ſixty minas, to *two hundred and twelve pounds ten ſhillings*. Three talents then, of which Pyrrhus was poſſeſſed, were ſix hundred and thirty-ſeven pounds ten ſhillings, a ſmall fortune in England, but not inconſiderable at Athens, where ſilver was ſcarce, and even the ſuperfluities of life eaſy to be procured. Wherever Attick money is mentioned in theſe ſpeeches, the reader will in a moment reduce it to Engliſh money by the help of this note.

89. —one witneſs only, named Pyretides] I have left the word διαπραττόμενος untranſlated, although it is emphatical in itſelf, and ſeems to

have no ſmall force in the original; but its common acceptation is hardly reconcilable with the context; for it implies an actual ſubornation of Pyretides, who yet was but a pretended witneſs, and diſclaimed any knowledge of the affair. Can it be rendered thus—"Pyretides, whom he hired to attend him?" Or thus—"Pyretides, whom he attempted to ſuborn?"

90. —when Xenocles went to Thebes with an intention to eject our ſervants from the mines] It is impoſſible not to agree with Reiſke that this paſſage abounds with difficulties; nor could I have made it intelligible in a verbal tranſlation. As to the words, εἰς τὸ ἐργαστήριον τὸ ἡμέτερον εἰς τὰ ἔργα, it is obſervable that Demoſthenes has a ſimilar repetition in the beginning of his ſpeech againſt Pantænetus, where the cauſe relates to a diſpute about a foundery in Maronea. Perhaps, on the authority of that parallel paſſage, we might here read ἐν τοῖς ἔργοις. How there came to be *works* in the territory of Thebes, or how an Athenian could have property in the Theban dominions, I cannot tell. It once occurred to me, that if Θήβαζε were the true reading, and not Θρίαζε or Θόραζε, there might have been a diſtrict in Attica of that name; but that was mere conjecture; and the diſtance from Athens to Thebes in Bœotia appears in the beſt maps of ancient Greece to be

juſt three hundred ſtadia. Ἐξαγωγὴ is a foren-ſick term exactly anſwering to *ouſter*; and in this technical ſenſe the verb ἐξάγειν, *to ouſt*, is uſed by Iſæus, once in this ſpeech, and twice in that on the eſtate of Dicæogenes. Reiſke ſuppoſes, in one of his notes, that the ſervants of Xenocles were ouſted by the brother of Endius; but why ſhould Xenocles carry ſo many witneſſes out of Attica, to atteſt an act which he could not poſitively foreſee? The learned editor's note and tranſlation are at variance in the interpretation of this dark paſſage. I have choſen the leaſt exceptionable ſenſe, although one does not eaſily ſee the neceſſity of travelling ſo far to claim the eſtate of Pyrrhus, the title to which was ſoon after brought before the court in another form: the reaſoning, indeed, of Iſæus in this place proves, that the act of Xenocles was frivolous.

113. —ſhould not pay the ordinary coſts of the ſuit] In the original, μὴ κατὰ τὸ τέλος ζημιωσθαι, upon which paſſage Reiſke has the following ingenious note: "Locus difficilis, dictio "perambigua et inexplicabilis! Suſpicabar ali-"quando tantundem hoc eſſe atque κατ' ἐπωβελίαν, "non ſolummodo ſextâ parte ſummæ univerſæ, "quam valent bona petita mulctari, ſed totâ "ſummâ. Nunc dubito, an potius ſignificet "*pro cenſu*. Cenſebatur civis quiſque quantum

" in bonis haberet, atque pro iſto cenſu major " aut minor cuique mulcta arrogabatur. Quæ- " rant peritiores." Without pretending to be one of thoſe, to whom the candid annotator refers for a ſolution of this difficulty, I will follow him in fairly confeſſing my doubts and even my errors. I once imagined with him, that nothing more was meaned than the fine of an obolus for every drachma, or a ſixth part of the ſum claimed; and I amuſed myſelf with conjecturing that KATATOTEAOC might have been written by an ignorant tranſcriber for KATOBOAOYC; but I ſoon acquitted the tranſcriber and laughed at my own criticiſm. As to the ſuppoſition that the party who made a falſe claim was amerced in proportion to his rank or *cenſus*, I never could adopt it: there is no authority for ſuch an interpretation; and the wiſe Athenians would not have allowed a practice, which would have been a check to the wealthy only, who were leſs likely to inſtitute iniquitous ſuits, while the low and indigent might have diſturbed the titles of their fellow-citizens without much danger. My next idea is expreſſed in my tranſlation: as τέλος was anciently uſed for *expenſe*, whence εὐτέλεια ſignified *frugality*, and πολυτέλεια, *profuſion*; I conceived that Iſæus meaned only the coſts of ſuit, or *expenſa litis, in quibus*, to uſe the words of the Roman code,

victor victori condemnandus est; and the Athenians, I ſuppoſed, had the ſame maxim. In this notion I acquieſced, till the very learned editor of Euripides favoured me with his opinion, that τέλος was a generick name for a tax or duty, and comprehended, among other branches of the revenue, the πρυτανεῖα, or *depoſits*, which are mentioned by Ariſtophanes, and by Iſæus himſelf in his ſecond ſpeech, and which were forfeited to the publick by the unſucceſsful claimant: he thought, therefore, that the Greek words ought to be rendered—" not " only to be puniſhed by a forfeiture of his de- " poſits." This ſeemed plauſible; but it appears from the ſcholiaſt of Æſchines, that thoſe forfeited depoſits were the perquiſites of the jury, and I am now convinced without a ſhadow of doubt, that the paſſage muſt be tranſlated thus: " It would be right, judges, that every " claimant of an eſtate, by gift or teſtament, " who fails in proving his title, ſhould not be " amerced *by the limited power of the magiſtrate*, " but ſhould forfeit to the ſtate the full value of " the fortune which he falſely claimed." It was inconſiſtent with a free government that any magiſtrate ſhould have an unlimited power of impoſing fines: the ſenate itſelf could impoſe none exceeding five minas, which was leſs than eighteen pounds; and, in the ſpeech of Demos-

thenes againſt Euergus and Mneſibulus, that venerable body are ſaid to have deliberated whether they ſhould ſet a fine upon Theophemus *to the full extent of their legal power*, or ſhould deliver him over to a court of juſtice, that he might be more ſeverely puniſhed. Now among the various ſenſes of τέλος it denotes, according to Ulpian, *the power of a magiſtrate*; and the very words of Iſæus are taken from the law of Solon preſerved by Demoſthenes in his ſpeech againſt Macartatus: "Let the archon take care "of orphans and heireſſes, and protect them "from violence: if any one ſhould injure them, "he may fine the delinquent κατὰ τὸ τέλος"— which Potter tranſlates very properly, *as far as the limits of his power extend*. If the magiſtrate thought he deſerved a heavier penalty, he was directed by the ſame law to prefer an accuſation againſt him, in the nature of an information *ex officio*, in the court of Heliæa; where a corporal puniſhment might be inflicted, or a larger mulct impoſed, by the verdict of a jury. This paſſage in Demoſthenes puzzled Wolfius, who ſeems to have been diſſatisfied with his own explanation of it; and Reiſke, though he was apprized of Petit's interpretation, ſtill returns to his own opinion, that τέλος there ſignified the *fortune* and *rank* of the offender, an opinion unſupported, as I intimated before, either by reaſon or authority.

120. —committed by the magiſtrates to priſon (whence he was afterwards releaſed) together with ſome other felons, whom you publickly ſentenced to an ignominious death] The text is, πρῶτον μὲν εἰς τὸ δεσμωτήριον ἀπήχθη, τοῦτο ἀφαιρεθεὶς, μεθ' ἑτέρων τινῶν ὑπὸ τῶν ενδεκα, ὃς δημοσίᾳ απαντας ὑμεις ἀπεκτείνατε. A moſt perplexing paſſage! If the relative belong to the eleven, inſtead of the criminals, it muſt be tranſlated in this manner: "he "was firſt committed to priſon, and afterwards "ſet at liberty with ſeveral others, by thoſe "eleven, all of whom were publickly executed "according to your ſentence." It is well known that the office of the eleven at Athens correſponded in ſome reſpects to that of our juſtices of peace, and in others to that of our ſheriffs; they had power to commit felons, and were obliged to ſee them executed after their conviction. Now had the Athenians at any time put ſo many magiſtrates to death for ſuffering criminals to eſcape, or for any other miſbehaviour, hiſtory would certainly have recorded ſo extraordinary a fact. There were, indeed, *eleven* miniſters of the thirty tyrants, who are mentioned by Plato, and who were moſt probably executed with their employers. Xenophon ſays, that, after the reſtoration of the popular government by Thraſybulus, the thirty tyrants, the ten governors of the Piræus, and *the eleven who*

ruled in the city, were excluded from the benefit of the general amneſty. Hence the oath taken by the citizens, that they would not remember the injuries done by any, *except the thirty and the eleven*. If we ſuppoſe Chariades to have been releaſed by theſe men, who muſt have been killed in the ſecond year of the ninety-fourth Olympiad, we may form a plauſible gueſs concerning the date of this ſpeech; for, if he fled from the Areopagus in the year after his releaſe from priſon; if Nicoſtratus died ſeventeen years after that; and if two years were ſpent in the controverſies among the ſix firſt claimants of his eſtate; this cauſe, in which Iſæus was employed, might have been tried in the twenty-firſt year after the archonſhip of Euclid, in which year Demoſthenes was born. After all, how uncertain are theſe conjectures upon conjectures!

124. Let the oath again be read.] Why ſo? Could it ſo ſoon have been forgotten? I am perſuaded, that theſe words were repeated by miſtake; and that in this place were read the ſchedule and inventory mentioned in the preceding pages.

125. having ſailed to Cnidos] This could not have been the ſea-fight at Cnidos, in which Conon obtained a ſignal victory over Piſander. It is probable that the naval engagement, in which Dicæogenes fell, was that deſcribed by

Thucydides in his eighth book, which happened in the firſt year of the ninety-ſecond Olympiad, and the twentieth of the Peloponneſian war; when Aſtyochus defeated Charminus at Syme near Cnidos: now if we ſuppoſe, as we reaſonably may, that the fortune of the deceaſed was diſtributed among his relations in the ſame year, each of them muſt have poſſeſſed his ſhare till the ſecond year of the ninety-fifth Olympiad. The troubles, to which Iſæus alludes, began in the archonſhip of Pythodorus, but laſted ſome time after that of Euclid: in that interval the defendant Dicæogenes was inſtigated by Melas to claim the whole eſtate, although he did not obtain judgment for it, till twelve years had elapſed from the firſt diſtribution; and, as he enjoyed the profits of the eſtate for ten years, this ſpeech was probably delivered in the laſt year of the ninety-ſeventh Olympiad, or two thouſand one hundred and ſixty-ſix years ago, and may therefore be conſidered as one of the moſt ancient monuments now extant in the world of the litigation, which naturally followed the liberty of tranſmitting property by will.

127. —having purchaſed the houſe of their father and demoliſhed it] Reiſke alters the punctuation of the text, and gives it this ſenſe: that Dicæogenes bought the houſe of Theopompus, and, having dug up the garden, which ſeparated

it from his own houſe, filled the intermediate ſpace, and made one very large manſion for himſelf. Surely, this is a forced conſtruction founded on a very uncertain conjecture. The cruelty of the act ſeems to have conſiſted in his having demoliſhed the dwelling houſe and dug up the area, as if Theopompus had been a traitor. The ſentence againſt Antipho the orator and Archeptolemus is preſerved, and part of it was, *that their houſes ſhould be demoliſhed.* The word καθασκάπτειν, which is uſed both in that ſentence and by Iſæus, ſeems applicable to a *building*, but not to a *garden*. I perceive, on reviſing this paſſage, that the words παίδων ὄντων τότων, *while they were boys*, are left untranſlated. Few tranſlations, not ſtrictly verbal, are free from ſuch overſights.

127. —he ſent my couſin Cephiſodotus to Corinth] Probably at the beginning of the ninety-ſixth Olympiad, when the Corinthian war broke out.

129. —but the ſiſters of the deceaſed whoſe daughters we married] If we ſuppoſe that the ſiſters of Dicæogenes had daughters, who intermarried with their firſt couſins, we need not have recourſe to Reiſke's conjecture, that this part of the ſpeech was delivered by a different perſon.

138. —when Lechæum was taken] That

is, in the fourth year of the ninety-ſixth Olympiad, three hundred and ninety-two years before Chriſt.

138. —the Eponymi] We are here obliged to Reiſke for an excellent emendation: the old reading was ὁμωνύμων, which can have no meaning, unleſs we ſuppoſe that ſtatues had been erected to the memory of the brave citizens, who bore *the ſame name* with Dicæogenes: but the *Eponymi* were the ten heroes, from whom the ten tribes of Attica were *named*, and many publick inſtruments were hung up on their ſtatues, which ſtood in the moſt conſpicuous part of the city.

140. —in the battle of Eleuſis] That venerable ſcholar and ſoldier, M. Paumier de Grentemeſnil, has taken great pains to elucidate this paſſage of Iſæus; but ſeems, after all, to have left it as dark as he found it. Whether Dicæogenes, the plaintiff's great-grand-father, periſhed, as Reiſke imagines, in the irruption made by Pliſtoanax into the diſtrict of Eleuſis, or whether he fell in one of the preceding ſkirmiſhes with the Corinthians, mentioned both by Thucydides and Diodorus, I muſt leave undecided, and that without much regret. The battle of Spartolus, which the hiſtorian of the Peloponneſian war has fully deſcribed, was fought in the fourth year of the eighty-ſeventh Olympiad, the ſame

year in which the death of Pericles was more than compenſated by the birth of Plato. The conjecture of Paumier, who would read Ὀλυνθίας inſtead of Ὀλυσίας, and would render it *Spartolus in the Olynthian territory*, is ingenious but not convincing. Spartolus was known without an adjunct: had any been neceſſary, it would have been Βοττικὴ; but a place, where Athens loſt four hundred and thirty gallant men, with all their general officers, muſt have acquired a dreadful celebrity. Still leſs can we be ſatisfied with the hypotheſis of Reiſke, who propoſes to read Ὀδρυσίας, *although the Odryſians had nothing to do with Spartolus*; *but the orator*, ſays he, *might not have been ſkilled in geography, and might have confounded Odryſia with Bottiæa.* His other conceit, to which he was leſs partial, that the troop, which Menexenus commanded, was called *Odyſſean*, from Ulyſſes, has more ingenuity in it. By what names the Athenians diſtinguiſhed their legions, I have not learned: if Ὀλυσίας be the true reading, the name may bear ſome affinity to the words ὄλος or ὀλέθριος, *deſtructive.*

141. — the Olynthians] Ὀλύνθιοι. "Suſpectum hoc nomen. Olynthios, qui ſemper "Athenienſibus infeſti fuiſſent, pro his occubuiſſe dimicantes adverſus Peloponneſios, unde "ipſi orti eſſent, id verò miror, neque memini "uſpiam legere." Reiſke. It is abſolutely cer-

tain, that the Corinthian, not the Peloponneſian, war is here meaned by Iſæus: now the Olynthians had actually begun to diſtinguiſh themſelves as an ambitious and martial people at the very time when this cauſe was heard. I was unwilling, therefore, to alter the word in the text, although I have always ſuſpected, that Ὀπούντιοι was the genuine reading. The Locri Opuntii, who, both on their own coins and in the Greek books, are called ſometimes Locrians, and ſometimes *Opuntians* only, were the firſt promoters of this war; and it cannot be conceived, that they remained inactive, when their ſupporters the Thebans had engaged Athens in their quarrel.

141. — thy anceſtors, who ſlew the tyrant] The ſong of Calliſtratus, which every ſchool-boy in the higher claſſes can ſay by heart, has made the name and ſtory of Harmodius familiar to all. If the defendant Dicæogenes deſcended from that line through his father Proxenus, and not through his mother, the pedigree prefixed to this ſpeech muſt be corrected; and, indeed, there does not ſeem to be ſufficient reaſon for ſuppoſing that Proxenus and the firſt Menexenus were brothers.

142. — thou, Dicæogenes] Contempt and indignation cannot be more ſtrongly marked, than by the poſition of the proper name at the

end of this ſpeech; but it would not have the ſame effect in our language without voice, look, and geſture, to enforce it. The ſingle name of Dicæogenes, as it ſtands in the original, ſupplies the place of epithets, and inſtantly ſuggeſts the idea of every thing deſpicable.

144. —when Meneſtratus ſailed to Sicily] Who Meneſtratus was, I know not; but have not ventured to depart from the text. The date of this ſpeech may be fixed with the greateſt certainty; for Iſæus afterwards ſays, that fifty-two years had elapſed from the fatal expedition to Sicily in the archonſhip of Arimneſtus, that is, from the firſt year of the ninety-firſt Olympiad; ſo that, if *from* be excluſive, and complete years be meaned, the cauſe was tried in the ſecond year of the hundred and fourth Olympiad, when Chariclides was Archon. This was the year after Demoſthenes, who was then in all probability a pupil of Iſæus, had ſpoken in his own cauſe againſt his guardians.

153. Philoctemon was ſlain at Chios] Moſt probably in one of the engagements mentioned by Thucydides in his eighth book. Timotheus, whom Phanoſtratus accompanied, was perhaps the ſon of Conon, who afterwards acquired ſuch fame by his victory at Leucas; and Chæreas, who married the daughter of Euctemon, might

have been the ſon of Archeſtratus, whoſe actions are recorded by the hiſtorian.

155. —more than three talents] That is, including the price of the ſlaves, without which the ſums enumerated amount to leſs than three talents by four minas and fifty drachmas. The text is extremely clear, but Reiſke's note gives me infinite trouble; nor can I yet comprehend by what method of computation he made the whole ſum riſe to four talents, wanting fifteen minas. He was not, *forſooth*, with all his learning, *a great arithmetician*.

166 —yet how can a man be ſaid to have died childleſs] We muſt here give Reiſke the applauſe, which he juſtly deſerves, for a moſt happy and ingenious emendation. The original, in the edition of Stephanus, is, πως ὢν Αἰσιμῷ τις; but, in that of Aldus, it is, ΠΩΣ ΟΥΝ ΑΝΑΙΣΙΜΟΣ ΤΙΣ, which was manifeſtly corrupted by the change of three letters from ΠΩΣ ΟΥΝ ΑΠΑΙΣ ΗΝ ΟΣΤΙΣ; ſo that the imaginary perſonage, Æſimus, vaniſhes at once, and there remains a perſpicuous intelligible ſentence. Another correction, which I cannot adopt, was propoſed by the writer of a few notes on a looſe piece of paper, now preſerved at Eton, in an edition of the Greek orators, which formerly belonged to Mr. *Topham*. Theſe notes were tranſcribed by Taylor, and his tranſcript was ſent by Dr. Aſkew to

Reiſke, who conſtantly cites it by the name of *liber Tophanis*, deſiring that nobody will aſk him who *Tophanis* was, and frankly declaring that he could not tell. I mention this trifle for the ſake of thoſe, whoſe curioſity may be raiſed by ſeeing the references to this unknown critick.

173. —who has ſince been appointed hierophant] The Ἱεροφάντης, who conducted the ceremony of initiation into the myſteries, was not permitted to marry after his appointment to that ſacred office; but a previous ſtate of celibacy was not a neceſſary qualification. Lyſias, in his ſpeech againſt Andocides, mentions one Diocles, ſon of Zacorus the hierophant.

This cauſe was probably heard a ſhort time after the Corinthian war.

189. —I am not without hopes] It is remarkable, that this paſſage of Iſæus is copied almoſt word for word by Demoſthenes in his firſt ſpeech againſt his guardian Aphobus, as the reflexions upon torture [p. 192] are repeated by him in one of thoſe againſt Onetor. Demoſthenes was very young, when he delivered thoſe four ſpeeches; but I cannot ſee ſufficient ground for believing that Iſæus compoſed them, although he might have given them a few touches with his pencil: they are not too highly finiſhed for a boy of eighteen, who had ſtudied under ſuch a maſter, whoſe language and manner he zealouſly imitated.

205. —a few ſtony fields] In the old editions, φελέαδα χωρία ατῖα ἐκείνῳ δέδωκε. I wonder that Reiſke ſhould entertain a doubt concerning the genuine reading of this paſſage, when he cites Harpocration, who ſays expreſsly, that Iſæus, in this very ſpeech, uſes φελλέα for *a ſtony place where goats browſe*. The orator wrote, φελλέας δὲ, which ſome reader thought proper to explain imperfectly in the margin by χωρία ατῖα; *fields ſo called*; and, when this rude gloſs found its way into the text, the original itſelf was corrupted.

206. —when I have brought him to a trial] Diocles was afterwards proſecuted; and Iſæus compoſed a ſpeech againſt him, from which ten or eleven words are cited by Harpocration.

209. Aſtyhilus died at Mitylene, whither he had ſailed with the army] I once imagined that he might have ſailed with Thraſybulus, who was ſent on an expedition againſt Leſbos in the archonſhip of Philocles, the year after the taking of Lechæum; but, as it afterwards appears, that he had ſerved at Corinth, in Theſſaly, and during the whole Theban war, which was not concluded till the third year of the hundred and third Olympiad, I am at a loſs to determine on what occaſion he could have gone with the army to Mitylene, unleſs it was in the ſocial war, in which Leſbos, probably, took ſome part, as her neighbour Chios was ſo warmly engaged

in it. If my conjecture be juſt, this was, perhaps, one of the laſt ſpeeches written by Iſæus; who, according to the hypotheſis in my prefatory diſcourſe, muſt have been at leaſt ſixty years old when he compoſed it.

226. —the daughter of Ariſtarchus and ſiſter of Cyronides] This was the truth; but the text, which I think imperfect, makes him declare his mother to be the ſiſter of Ariſtarchus. She would, indeed, have been the ſiſter of the younger Ariſtarchus, if his adoption had been legal; but why it was neceſſary to admit the legality of that adoption before the magiſtrate, and even to acknowledge it on record, I cannot conceive.

234. —After this came the Corinthian war] It follows from this paſſage, that the ſpeech was delivered ſome time after the ninety-ſixth Olympiad, above one-and-twenty centuries ago.

239. I begin my defence, judges, with a recital of the laws] I ſuppoſe that the laws of Solon concerning inheritances, were read by the clerk, before Theopompus opened his defence.

242. Phylomache obtained a ſentence in her favour] The year in which this ſentence was pronounced is fixed with the utmoſt certainty by a depoſition preſerved in the ſpeech of Demoſthenes againſt Macartatus, concerning which I intend to diſcourſe at large in the commentary. The witneſſes depoſe, "that they were

preſent before the arbitrator in the archonſhip of Nicophemus, when Phylomache, the daughter of Eubulides, obtained a decree for the eſtate of Hagnias againſt all her opponents." Now Nicophemus was archon in the fourth year of the hundred and fourth Olympiad, three hundred and ſixty-one years before Chriſt. Some time muſt have been ſpent in the litigation which followed before this cauſe could have been ripe for a hearing; and we cannot be very far from the mark, if we conclude that it was heard two thouſand one hundred and thirty-five years ago.

255. I will ſhow in what manner I have regulated the concerns of my nephew] The orator promiſes to enlarge upon two heads, and he only touches upon the firſt, namely, the compariſon between the fortunes of Theopompus and Stratocles; hence it is manifeſt, that part of the ſpeech is unhappily loſt.

256. His eſtate was this:]

Stratocles.	T.	M.	D.
Thriaſian farm	2	30	0
Two houſes -	0	35	0
Money out at intereſt - - -	0	40	0
Goods and caſh	0	49	0
Debts - - -	0	10	0
Patrimony -	0	46	0
	5	30	0

Theopompus.	T.	M.	D.
Œnean farm -	0	50	0
Inheritance of Hagnias - -	2	50	0
Deficiency - -	1	50	0
	5	30	0

The patrimony of Theopompus muſt have been included in the farm at Œnea; and it is neceſſary to read πενταχισχίλιαι in the valuation of Hagnias's eſtate. The intereſt of the forty mimas at nine obolus's a month, is properly computed; and the young man's fortune, including the legacy of Theophon, was exactly eight talents, or ſeventeen hundred pounds. Nothing can be more clear than the text, nothing more ſimple than the calculation; yet the perplexity, to which Reiſke was reduced, is perfectly ridiculous; for, by jumbling the principal with the intereſt, and the rents with the value of the eſtate, and by adding together all the ſums named in the whole paragraph, he makes the property of Stratocles amount to more than ten talents. "Verum fatebor enim, ſays he, ad "calculandum et omnes omninó artes mathe- "maticas invitâ Minervâ natus ſum." He then attempts a correction, but, finding even that irreconcileable with the computation which follows, he concludes in deſpair—"ut brevis "ſim, in componendis hiſce rationibus pecuni- "ariis exitum non reperio."

258. The Lacedæmonians would conſider ſuch an expedition as a breach of the peace] This was, probably, the general peace concluded in the third year of the hundred and third Olympiad, and broken the next year in the ar-

chonſhip of Chio. The Macartatus, againſt whom Demoſthenes compoſed his ſpeech, was the ſon of Theopompus, mentioned in the preceding page, who was appointed to preſerve the name and family of the bold adventurer, his maternal uncle.

268. When I commanded a galley in the archonſhip of Cephiſodotus.] That is, in the third year of the hundred and third Olympiad; but if *Cephiſodorus* be the true reading, as Sylburgius was inclined to believe, this ſpeech muſt have been compoſed either during the ſocial war, or after it; and Iſæus muſt have had the happineſs of ſeeing his pupil advance towards the perfection of eloquence; for the oration againſt Leptines was delivered nearly at the ſame time. It appears from Harpocration, who cites three lines from this ſpeech, that the citizen, who aſſerted the freedom of Eumathes, was named Xenocles.

The Pedigree of Hagnias.

Buselus

Cleocritus

Stratius I

Hagnias I

Eubulides I

Habron

Œnanthe

A Profpaltian

Phanostrate

Charidemus

Polemo

Sifter *of* Stratius

Second Husband

Phyloma che I

Phliager

Telesippe

Euctemon

Callistratus

A Daughter

Stratonides

Chæreleos *and* Macartatus I

Apolexis

Theopom pus *Def.r in Iseus*

Stratocles

Sifter *of* Theo phon

Stratius II

A Daughter

HAGNIAS *dec.d childless*

Glau co

Eubulides II

Menestheus

Sosia I

A Daughter

A Daughter

Macartatus II *Def.r in Demosthenes and another* Son

First *and* Second Daught.r

A Son *The Pl.t in Iseus*

Third *and* Fourth Daught.r

Issue of Stratius

A Daughter

Phyloma che II

Sosuheus

A Son

Sosia II

Eubulides III *Pl.t in Demosthenes*

Menestheus

Callistratus

A Daughter *married to her Father's nephew*

A

COMMENTARY

ON

ISÆUS.

THE ten ſpeeches of Iſæus are the moſt ancient in the world on the intereſting ſubject of legal and teſtamentary ſucceſſion to property, except, perhaps, that of Iſocrates on the eſtate of Thraſylochus in Ægina, which has rather the air of a rhetorical exerciſe than of a real addreſs to a court of judicature, and tends very little to elucidate the topicks, which it is now my intention to diſcuſs: next to theſe in order of time on the ſame ſubject are two ſpeeches of Demoſthenes, one againſt Leochares, and the other againſt Macartatus; from the ſecond of which I have received ſo much light, that, if it had not been extant, I ſhould not have underſtood many paſſages in my author. It was my firſt deſign to ſubjoin at full length this very cu-

rious monument of Athenian juriſprudence; but, as the ſpeech conſiſts chiefly of depoſitions and recitals of various laws, which give it very much the reſemblance of a well drawn brief, I think it better to ſum up the evidence in the cauſe, with ſuch obſervations as will render it perſpicuous, and to illuſtrate the whole with a complete pedigree of the family, which will alſo be uſeful in explaining other parts of the Attick law. Demoſthenes himſelf had intended, as he tells the court, to draw a genealogical table for their inſpection; but, reflecting that thoſe jurymen who ſat at a diſtance would be unable to have a diſtinct view of it, he thought it neceſſary to explain it by words, which all of them might hear: what Demoſthenes choſe to omit, I have performed with great care for the convenience of the reader; and here we may take notice of the advantage which juſtice derives among us in ſimilar cauſes from the facility of multiplying copies; for, as a number of pedigrees may be printed at an expenſe not to be conſidered in important trials, the court, the jury, and the bar, may eaſily go along with the leading counſel, and form a perfect idea of the queſtion before them. The difficulty, indeed, of explaining a long genealogy by words alone, eſpecially where many of the perſons bear exactly the ſame name, together with the number

of miſtakes occaſioned by the negligence of copyiſts, made the ſpeech againſt Macartatus ſo dark and perplexed, that the learned almoſt gave it up as inexplicable; and, when Oporinus complained to Wolfius that he could not comprehend the whole of his Latin verſion, "Do you," ſaid the tranſlator, "underſtand the Greek?" "No," ſaid the other. "Then," replied Wolfius, "we are even; and we ſhall, I believe, have "many companions in our ignorance." The grave editor's remark, that, "although the "ſpeech take its title from *Macartatus* or *moſt* "*happy*, yet it makes the interpreter *moſt miſer*- "*able*, and although it relate to the inheritance "of *Hagnias*, a name ſignificative of *purity*, yet "the text of it is by no means *pure*," may ſhow with how bad a grace a ſcholar attempts to be witty. I confeſs, that the whole compoſition appeared to me more obſcure than the oracles which are cited in it; until I perceived, before I had even ſeen the Leipzick edition, that the tenth ſpeech of Iſæus was delivered in a previous cauſe concerning the ſame eſtate; that it was compoſed by the great maſter in defence of the very Theopompus, whom his illuſtrious pupil afterwards attacked ſo vehemently; and that the two ſpeeches, though each of them apart was extremely dark, reflected ſo ſtrong a light on each other, that both became perfectly lu-

minous. The account, which I ſhall now give, of the numerous family, in which ſuch cauſes aroſe as employed the firſt advocates of Greece, will include a commentary on both their ſpeeches, and neceſſarily compriſe an explanation of ſeveral heads in the laws of Solon.

BUSELUS, a burgeſs of Œon, was father of five ſons, among whom he diſtributed his property; and they became the heads of as many diſtinct branches, which continued to flouriſh and ſpread themſelves, till HAGNIAS died childleſs, and, though an attempt was made to prove the contrary, inteſtate. His fortune was not much more than ſix hundred pounds; but no fortune ever gave birth to ſo much litigation, and, conſequently, to ſo much knavery. Two very different ſtories are told concerning the merits of the firſt claimants; one, which the reader will recollect, by Iſæus in the perſon of Theopompus, and another by Demoſthenes in the perſon of Soſitheus, who married Phylomache, the ſecond of that name. If we believe Theopompus, who does not appear in a very favourable light, Hagnias actually made a will in favour of his niece, with a ſubſtitution to Glauco after her death; but he gives no particular account, how Phylomache, if the will was valid, was able to obtain a ſentence againſt Glauco, and to diſpoſſeſs him: Soſitheus, on the

other hand, aſſerts, that the will was proved to be a forgery, and that the whole was the contrivance of Theopompus himſelf, who gave the principal evidence for Glauco, and a brother of his, named Glaucus. It is agreed, that Theopompus afterwards commenced a ſuit againſt Phylomache, and ſucceeded in it; but Iſæus aſcribes his ſucceſs to the ſuperiority of his title, while Demoſthenes imputes it to an artifice by which the jury were circumvented; for he avers, that the two half-brothers of Hagnias, deſigning, to aſſiſt Theopompus in their turn, joined with him and one Eupolemus in claiming the eſtate; that the archon, therefore, permitted the claimants to ſpeak four times as long as the defendant, for each of them had the ſame quantity of water in his clepſydra: that the confederates gave falſe evidence for one another, and told a number of groſs lies, which Phylomache's advocate had not time to refute; that the jurymen were perplexed and divided; but that Theopompus gained his cauſe by a very ſmall majority.

The next ſuit, which the fortune of Hagnias produced, was the information againſt Theopompus, for whom Iſæus wrote his tenth ſpeech; and in that alſo (whether juſtly or not we ſhall afterwards examine) he had a verdict in his favour; for, after his death, we find his ſon, the younger Macartatus, in poſſeſſion of the dis-

puted eſtate; and it is he, againſt whom the huſband of Phylomache ſet up a claim for the third Eubulides: what was the event of this laſt ſuit, it is impoſſible to diſcover with certainty; but, in order to fix with tolerable accuracy the reſpective merits of all the claimants, I ſhall recapitulate the Athenian laws of inheritances and deviſes, comparing them, as I proceed, with thoſe of ſome other nations, ancient and modern, and ſhall thence take occaſion to illuſtrate the nine preceding ſpeeches of Iſæus.

I ſhall firſt review the laws of heirſhip by proximity of blood; and, ſecondly, the laws of heirſhip by appointment, which was either by adoption during life, or by teſtamentary diſpoſition; and, under the laſt head, I ſhall conſider firſt how wills were made at Athens, and next how they were revoked.

I. Had Hagnias died leaving only male iſſue, his ſons would have taken equal ſhares of his inheritance, like heirs in gavelkind; a law no leſs favourable to that juſt balance of property which Solon meaned to eſtabliſh, than the law of primogeniture is agreeable to the military ariſtocracies, in which it has prevailed; but there was another principle in the Athenian government, which, without counteracting the ſpirit of equality, kept the partibility of eſtates within proper limits; for, as the moſt expenſive offices

were filled by men of a certain cenſus, it was highly expedient that there ſhould always be a number of citizens moderately rich, who might contribute to the publick charges, without being too much elevated by opulence above the common level. Hence proceeded the complaints againſt men, who had diſſipated or aliened an eſtate, out of which gallies uſed to be furniſhed, and entertainments provided.

Thus, in the ſixth ſpeech, Thraſyllus urges with vehemence, and even calls witneſſes to prove, that the fortune of Apollodorus, which was known to have contributed largely to the naval expenſes, had been reduced to nothing by the negligence and profuſion of his adverſaries; and he afterwards declares the duty of a good citizen to conſiſt in preſerving his eſtate, and in paying his contributions with alacrity: ſo, in the tenth, Theopompus guards againſt any ſuſpicion of having aliened a certain farm with a view to an exemption from ſerving the publick offices; and, in the third fragment, the guardian cenſures his ward for having ſold and diſperſed his patrimony, which he might have rendered ſerviceable to his country and honourable to himſelf. Now, as theſe accuſations were attended with very ſerious ill conſequences to thoſe who deſerved them, as moſt of the Athenians were animated by a true ſpirit of pa-

triotiſm, and as a gentleman, proud, poor, and idle, was a monſter unknown in their ſtate, I cannot help conſidering the law of partible inheritances as not only the moſt natural, but at Athens even the wiſeſt, and the law of primogeniture as a great evil introduced into ſome countries for the prevention of greater. It were ſuperfluous to add, as the ſubject has been exhauſted by others, an enumeration of the many illuſtrious nations, who have ſhown no preference to the firſt-born, or to diſcourſe, after Selden and the Miſna, on the double portion of the Hebrews; but it may be neceſſary to obſerve, that the ſucceſſion *in ſtirpes* prevailed, moſt probably, at Athens in the deſcending line, as it certainly did in the collateral: thus, had Buſelus died worth five talents, leaving his ſons Cleocritus, Stratius, Hagnias, Habron, and the children only of his ſon Eubulides, each of the four ſons would have taken one talent, and Philager, Euctemon, Calliſtratus, repreſenting their father, would have ſucceeded to twenty minas each. This would have occaſioned a ſubdiviſion of the fortune left by Buſelus; but the induſtry of his grandſons, incited and rewarded by the ſpirit of the conſtitution, would ſoon have raiſed their property to a juſt height, as a well almoſt exhauſted by too large draughts is quickly and plentifully ſupplied by the ſpring.

II. If Hagnias had left iſſue male and female, the ſons would have taken equal ſhares of his eſtate, but muſt have aſſigned ſuitable portions to their ſiſters: thus if Soſitheus had died worth three talents, Eubulides, whom he had emancipated, would have been entitled to no part of them, but Soſia, Meneſtheus, and Calliſtratus, would have received each a talent, and muſt have contributed to their ſiſter's fortune; and thus, on the death of the firſt Hagnias, his only ſon Polemo would have inherited his whole eſtate, but muſt have given Philomache in marriage with a portion conformable to his inheritance: what ſhare of it was in this manner transferred to the ſiſters, I cannot determine; but am inclined to think that the aſſignment of it was left to the affection and liberality of the brothers. It was reckoned highly diſgraceful to be ungenerous on theſe occaſions; and, in the ſpeech on the eſtate of Ariſtarchus, the complainant recommends himſelf to the favour of the jury, by informing them, that, *although his poſſeſſions were inconſiderable, he had given his ſiſter in marriage with as handſome a portion as he could ſpare.* Beſides, a ſuſpicion of illegitimacy was caſt upon girls, who were married with a ſmall fortune in proportion to the eſtate of their fathers; thus when Pyrrhus left three talents, and his daughter Phila was taken by

Xenocles with a thouſand drachmas only, there was great reaſon to believe, and Iſæus warmly contended, that her huſband knew her to be illegitimate, ſince he married her *without even a tenth part of her paternal eſtate:* but here I cannot help diſſenting from *Perizonius*, who ſeems to have collected from this paſſage, that the tenth part of the inheritance was the uſual portion given to ſiſters among the Athenians, as it was among the Hebrews; for I find no trace in the other ſpeeches of any fixed rule; and even, in the very cauſe to which I have juſt alluded, *eighteen* minas, or the tenth part of three talents, would have been thought a moderate portion out of an inheritance, which at Athens was eſteemed conſiderable; but Phila had not near ſo much; and it happened, that the fortune of a thouſand drachmas, which ſhe received from her brother by adoption, was exactly the νοθεῖα, or *baſtard's part*, which was uſually allotted to an illegimate child. It is probable, that the portion was often adapted to the circumſtances of the huſband; for twenty minas were given to Stratocles, and as many to Theopompus, with their reſpective wives, whence the latter proves the ſcantineſs of his own fortune, urging that *ſo ſmall a ſum would not have been given to a man of large poſſeſſions*; and the huſband, indeed, was commonly bound in the προικῶον, or *marriage*

ſettlement, to aſſign a part of his own eſtate of equal value at leaſt with the portion, as a ſecurity for its being reſtored to the perſon who gave it, in caſe either of a divorce, or of the wife's death without iſſue; and the property thus ſettled was diſtinguiſhed, like all other hypothecated eſtates, by ſmall columns and inſcriptions, called ὅροι, erected on the land, or affixed to the houſes, and containing a ſpecification of the ſum for which they were pledged. This method, which reſembled the *donatio propter nuptias* of the ancient Romans, appears more ſimple than our modern *ſettlements*; and, as the Athenian ἀποτιμήματα or *hypothecations* were open and notorious, like our old feoffments, they ſeem to have provided for the iſſue of the marriage no leſs effectually than the eſtates in ſtrict ſettlement ſo ſtrongly tied by our conveyancers; but, as to the fortunes of daughters, our truſts and long terms, over which our courts of equity have ſo ample a juriſdiction, ſecure a proviſion for them with more determinate exactneſs than the law of *Athens*; where however it is reaſonable to believe, that the Archon could compel the ſons to aſſign competent portions.

In this place I cannot forbear mentioning an inſtance in our own law, where juſtice, reaſon, and fair analogy, are not yet, as I apprehend, completely diſengaged from the ſhackles of feu-

dal ſtrictneſs. The celebrated rule, that "where-
"ever an eſtate of freehold is given to the an-
"ceſtor, and a ſubſequent limitation is made, in
"the ſame conveyance, to his *heirs* or the *heirs*
"*of his body*, he ſhall take in the firſt caſe a
"fee-ſimple, and in the ſecond, a fee-tail," has certainly prevailed for near five hundred years; and, as it is not only venerable on account of its antiquity, but has been the baſis of moſt titles in the kingdom, let us hope that it will prevail for as many centuries more, without caring whether it was originally contrived, that the lord might not loſe his wardſhip, relief, and other profits of his ſeignory, or whether it was deſigned to facilitate the alienation of property, and to prevent the inconvenience of leaving the fee in abeyance; or, laſtly, whether it only means that, in general, thoſe who take by the *name* of heirs, muſt take in the *capacity* of heirs, that is by deſcent, and conſequently that their anceſtor muſt have a deſcendible eſtate. Whatever might have been the reaſon of the rule (and each of the juſt-mentioned reaſons is ſupported by great authorities), it could only have been a ſubſidiary or ſuppletory rule, calculated to aſcertain the intention of parties, where other evidence of intention was either wanting or doubtful; but, where the meaning is clear beyond a ſhadow of doubt, that the perſons deſcribed as heirs are not

to take in that quality, and eſpecially where hardſhips and contradictions would follow ſuch a conſtruction, the rule ought in ſenſe and reaſon to give way, or rather it ought not to be called in aid, when the intent is plain without it. Let us therefore ſuppoſe, that, in conſideration of an intended marriage, the father of the wife ſettles an eſtate *upon the huſband for his life, remainder to the wife for her life, remainder to the heirs of his body on her to be begotten:* no man can harbour a doubt of the intention to ſecure a proviſion for the iſſue of the marriage; yet what can reſtrain the parents from levying a fine or ſuffering a recovery? What can hinder the huſband from aliening the eſtate, diſſipating the money ariſing from it, like Xenænetus in the eighth ſpeech of Iſæus, and leaving his children in extreme indigence? Had articles only been made *before* marriage in the ſame words, or had there been both articles and a ſettlement referring expreſsly to them, equity would have made the huſband tenant for life with remainder in tail to the iſſue; but, if there had been no executory agreement, and only a deed executed, I do not know that any court would interfere, or even incline to give relief on the ground of miſtake, the parties having inadvertently uſed words, which carry an eſtate-tail, when they clearly intended a ſtrict ſettlement; yet if the intent be

not indubitable, a court of equity ought not to depart from the technical import of the terms even in articles, and, if it be unqueſtionable, a court of law, one would imagine, ought to give it efficacy over artificial words, even in a deed; nor would reſpectable authorities be wanting, if this were the place for producing them, to prove, that "the words *heirs* or *heirs of the body*, are "not to be conſtrued as words of limitation, "either in a will or in a deed, when the inten-"tion of the teſtator or of the parties is plainly "declared, or manifeſtly appears, that they ſhall "be conſtrued as words of purchaſe." This queſtion, indeed, is not likely to ariſe on a marriage-ſettlement, in which it is uſual to give eſtates for life to the parents, with contingent remainders in tail to the firſt and every other ſon, after the interpoſition of truſtees to preſerve them; but I have ſeen ſettlements in the form above ſuppoſed; and I thought this digreſſion proper enough in comparing the laws of England with thoſe of Athens, to which we will now return.

If the brother was an infant, and the ſiſters marriageable, it may naturally be imagined, that the guardian allotted their portions out of his ward's eſtate; and we find, that the four daughters of Stratocles were married with handſome fortunes during the guardianſhip of their uncle

Theopompus: thus it appears, in the fourth cauſe, that Dicæogenes gave the ſiſter of the complainant to Protarchides, with a houſe in Ceramicus worth forty minas; a large portion, if we conſider the many ſhares into which the eſtate had been divided, and the inhuman conduct of Dicæogenes towards his couſins.

It may ſeem ſtrange that the law of SOLON, mentioned by Plutarch, which prohibited the φερνὴ or *portion* (as it is commonly rendered), and ordained "that a bride ſhould *bring* in marriage "no more than three robes and ſome utenſils of "ſmall value," ſhould in leſs than two centuries be fallen totally into diſuſe, eſpecially as all Solon's ordinances had been made perpetual after the archonſhip of Euclid by the law of Diocles; but, although the words φερνὴ and προῖξ be generally uſed as ſynonymous, yet *Petit* with great reaſon ſuppoſes that they were different: the legiſlator could never have forbidden the latter, or the *fortune* given by heirs with their female relations, for which his inſtitutions carefully provided; but, as the luxury of new-married women in apparel, trinkets, and furniture, had become exceſſive, he gave a ſeaſonable check to it by reſtraining the φερναὶ or *bridal preſents* to three robes and a few moveables. Thus, when Ciron gave his daughter to Nauſimenes with twenty-five minas, *together with clothes and ſome*

little ornaments of gold, the money appears to have been the προῖξ, and the reſt, what was properly called φερνή; although the motive aſſigned by Plutarch for Solon's regulation, namely, that he would not have marriage conſidered as a vile traffick for gain, but as a contract founded on affection, and intended for purpoſes beneficial to the ſtate, might have induced him to aboliſh or limit both the one and the other. At the ſame time I am aware, that the ἐξωπροικα of the more modern Greek juriſts were, probably, the ſame with the παράφερνα, *or goods over and above the portion*, which are mentioned by Ulpian in the Digeſt, and from which our term *paraphernalia* is apparently borrowed; but, on the whole, I am perſuaded that there was a diſtinction between the two words in the ancient Attick dialect. In ſome reſpects the προῖξ itſelf reſembled our paraphernalia, as it was not deviſable by the huſband, nor conſidered as his abſolute property; but it had this further advantage, that it was not liable to the claims of his creditors, even on a deficiency of aſſets.

It will not be foreign from the ſubject, to remark in this place, that the cuſtomary law of the old *Arabians* obliged every brother to give his ſiſter in marriage with a fortune; and that, in order to evade this law, it was uſual among them to contract double marriages, one man

taking the ſiſter of another without a portion, and giving his own ſiſter in return on the ſame terms; but this practice, which they called *Shigár*, was declared illegal by Mahomed. The diviſion of an inheritance enjoined in the fourth chapter of the Alcoran is very remarkable; it is there ordered generally, that *a male ſhall have the ſhare of two females*; ſo that, by the Mahomedan rule, Charidemus would have had two thirds, and Phanoſtrate one third of the eſtate left by their father Stratius: for Selden is miſtaken in ſuppoſing, that each would have ſucceeded to a moiety. Perhaps, this ordinance of the Aſiatick lawgiver was more conſonant to natural juſtice than that of Solon, who ſeems to have made the fortunes of Athenian women too vague and precarious.

III. Let us now put the caſe, that Hagnias had died leaving only female iſſue; the next of kin, who would have been entitled to the ſucceſſion, had there been no children, might have claimed the daughters in marriage. together with their inheritance, of which their ſons born in wedlock would have taken poſſeſſion at their full age. If a ſon was left, as in the former caſe, his ſiſter was called ἐπιπροικος or *portioneſs*; but a daughter, who had no brother, was diſtinguiſhed by the name of ἐπικληρος or *heireſs*; and this I mention, becauſe the latter word occurs per-

petually in the ſpeeches of Iſæus. Thus, in the ninth cauſe, when the daughter of Ariſtarchus, on the emancipation of Cyronides, and the death both of Democharès and her ſiſter, became ſole heireſs, her father's brother Ariſtomenes, or, on his refuſal, her firſt couſin Apollodorus, might have applied to the Archon, and obtained a decree for taking her in marriage; and, in the ſame manner, Phylomache, the only daughter of Eubulides, was claimed and married by Soſitheus, whoſe title will appear in a ſubſequent part of this commentary. The right of the neareſt kinſman to marry the heireſs was ſo firmly eſtabliſhed, that even the act of her own father could not ſuperſede it; and hence aroſe the moſt iniquitous and intolerable of all the Athenian laws, an odious remnant of the ancient inſtitution, which Solon in part aboliſhed, *that eſtates ſhould remain for ever in the family of the deceaſed*; for we learn from the ſecond ſpeech, that even if a father had given his daughter in marriage to a perſon whom he approved, yet, if he died without legitimate ſons, the next of kin might take her from her huſband and marry her himſelf, and Iſæus mentions it as a known fact, that many men had by this law been deprived of their wives; but Petit was clearly deceived in imagining, that the ſame law prevailed, when the father had *deviſed* his

property together with his daughter; for in that caſe the next heir was wholly excluded. Yet farther; when the unjuſt guardian Ariſtomenes, in defiance of the law, gave his niece without her eſtate, and with *a portion only*, to the father of the complainant, and when her huſband afterwards applied to her kinſmen for the inheritance, to which ſhe was intitled, and which they illegally poſſeſſed, they compelled him to deſiſt from his claim by threatening to diſſolve his matrimonial union, and to demand his wife for one of them, as her neareſt relation.

Nothing can be conceived more cruel than the ſtate of vaſſalage in which women were kept by the poliſhed Athenians, who might have boaſted of their tutelar goddeſs Minerva, but had certainly no pretenſions on any account to the patronage of Venus. All unneceſſary reſtraints upon love, which contributes ſo largely to relieve the anxieties of a laborious life, and upon marriage, which conduces ſo eminently to the peace and good order of ſociety, are odious in the higheſt degree; yet at Athens, whence arts, laws, humanity, learning, and religion are ſaid to have ſprung, a girl could not be legally united with the object of her affection, except by the conſent of her κύριος or *controller*, who was either her father or her grandſire, her brother or her guardian: their *domination* over her

was transferred to the huſband, by whom ſhe was uſually confined to the minute details of domeſtick economy, and from whom ſhe might in ſome inſtances be torn, for the ſake of her fortune, by a ſecond couſin, whom probably ſhe deteſted; nor was her dependence likely to ceaſe; for we may collect from the ſpeech on the eſtate of Philoctemon, that even a widow was at the diſpoſal of her neareſt kinſman, either to be married by him, or to be given in marriage, according to his inclination or caprice. Yet more; a huſband might bequeath his wife, like part of his eſtate, to any man whom he choſe for his ſucceſſor; and the mother of Demoſthenes was actually left by will to Aphobus, with a portion of eighty minas: the form of ſuch a bequeſt is preſerved in the firſt ſpeech againſt Stephanus, and runs thus:—"This is the laſt will of Paſio "the Acharnean. I give my wife Archippe to "Phormio, with a fortune of one talent in Pe-"parrhethus, one talent in Attica, a houſe worth "a hundred minas, together with the female "ſlaves, the ornaments of gold, and whatever "elſe may be in it." For all theſe hardſhips, which the Athenian women endured, a very poor compenſation was made by the law of Solon, which ordered their huſbands to ſleep with them three times a month.

Whether the fairer, but weaker, part of our

ſpecies ſhould, in well-ordered ſtates, ſucceed to an entire inheritance, and diſpoſe of it as their paſſion or fancy prompts them, may admit of ſome doubt; and we find on this point a remarkable diverſity in the laws of different nations, and of the ſame nation in different ages; on which ſubject Perizonius has written a learned diſſertation. The moſt ancient ſuit, perhaps, of which any account remains, was that inſtituted by the five daughters of Zelophehad, who died without ſons, for *a poſſeſſion among the brethren of their father:* they gained their cauſe; and it was thenceforth a rule among the Jews, that "if a man died, having no ſon, his "inheritance ſhould go to his daughter;" but when it was remonſtrated, that, if Mahla, Noa, Hagla, Milca, and Tirza, were to marry the ſons of other tribes, their inheritance would be taken from the tribe of their father, the divine legiſlator anſwered, *Let the daughters of Zelophehad marry whom they think beſt; only in the family of their father's tribe let them marry*; and if Solon had made no other reſtriction, his ordinance would have been more conformable to nature and reaſon; but the narrow policy of keeping an eſtate confined in a ſingle family can be juſtified by no good principle whatever.

The pagan Arabs, although divided into tribes, had no ſuch reſtraint upon their natural

inclinations; for there is not a more common topick in their ancient elegiack poems than the ſeparation of two lovers by the removal of the tents belonging to their reſpective tribes, which were not connected, like thoſe of the Hebrews and Greeks, by any regular bond of union, but ſeem to have been diſtinct and independent communities: as their inſtitutions, indeed, were perfectly military, they excluded women, who were unable to ſerve in their wars, from all right of ſucceſſion to property; but *Mahomed*, like another Juſtinian, aboliſhed this law of his countrymen, and ordained expreſsly, *that females ſhould have a determinate part of what their parents and kinſmen left, whether it were little or whether it were much*, allowing a double portion to the males, *on account*, ſays he, *of the advantages which God has given them over the other ſex.*

Among the early inhabitants of *Rome*, both males and females were permitted to inherit the poſſeſſions of their anceſtors; and this appears to have been the law of the twelve tables, which were derived in part from the inſtitutions of Solon; but the middle juriſprudence, departing from the old ſimplicity ſo favourable to legiſlation, admitted ſiſters only to a fraternal inheritance, and rejected all other female relations from the agnatick ſucceſſion, as if they had been

perfect ſtrangers, till the Prætorian equity miti gated this rigour by degrees; and Juſtinian, whoſe benevolence in this reſpect has been highly commended, reſtored the Decemviral law, with ſome additional directions of his own. The feudal law, like that of the old Arabians, and from the ſame principle of military policy, generally excluded daughters, unleſs there had been a ſpecial inveſtiture of their father in favour of them; and it is almoſt ſuperfluous to mention the ſtrictneſs of the *Salick* feudiſts, who preferred one ſex to the total excluſion of the other: our own laws obſerve a medium between their ſeverity and the latitude of the imperial conſtitution.

IV. If we ſuppoſe that Hagnias had left neither ſons nor daughters, but grandchildren only, ſome difficulties may ariſe in adjuſting the diviſion of his inheritance: there might have been grandſons alone, or granddaughters alone, or both grandſons and granddaughters; and if they had all been the children of one ſon or one daughter, I conceive that the three preceding rules are exactly applicable to theſe three caſes; for it is certain, that, in the deſcending line, no diſtinction was made at Athens between a title conveyed through a female or through a male, as there was in Rome, till the new ordinances relaxed the ancient ſtrictneſs. This appears

evidently from the ſecond ſpeech, where Iſæus repreſents it as impoſſible for Endius to have been ignorant, that, had Phila been the only legitimate daughter of Pyrrhus, *her children would have ſucceeded to their grandfather's whole eſtate*; and this was the very title of *Ciron's* grandſons; for the writer of the Greek argument to the ſeventh ſpeech was unqueſtionably miſtaken in ſuppoſing the cauſe to be *ſtrong in equity but weak in law*, and in imagining that the orator moſt artfully ſuppreſſed the rule concerning *the preference given to thoſe who claim through males*; a rule which did not relate to lineal deſcendants, as we learn with certainty from the ſpeech on the eſtate of Apollodorus: had the ſecond Phylomache, therefore, died before her father Eubulides, her four ſons and daughter would have been, on his death, in the ſame ſituation, as if they had been his children. We may next conceive, that BUSELUS had ſurvived his five ſons, and then died, leaving as many talents to be diſtributed among all their iſſue: it is probable, that *Oenanthe* would have taken, as heireſs, the ſhare of her father Cleocritus; and that the daughter of Habron alſo would have had one talent; ſecondly, that Charidemus and Polemo would have taken each a fifth part of the inheritance, giving marriage-portions reſpectively to their ſiſters: and thirdly, that the remaining ta-

lent would, as I remarked before, have been divided equally among the three ſons of Eubulides; and thus, if Charidemus had been dead, the great-grandſons Theopompus, Stratocles, and Stratius would have received each of them a third part of his allotment, or twenty minas; and, had Polemo been gone, his talent would have deſcended to HAGNIAS with the ſame obligation to give his ſiſter a fortune: in fact the inheritance of Hagnias was two talents and fifty minas, ſo that Buſelus muſt have left fourteen talents and ten minas, or above three thouſand pounds ſterling, unleſs we ſuppoſe, that his ſon Hagnias, and his grandſon Polemo, had augmented their fortune by diligence or parſimony.

I muſt here obſerve, that I have no certain authority for this ſucceſſion *in ſtirpes* to a grandfather's eſtate at Athens: it is clear, indeed, from the ſixth ſpeech of Iſæus, that *a daughter ſhared her paternal inheritance equally with a grandſon by another daughter deceaſed*; but if the firſt Hagnias had ſurvived both Polemo and Phylomache, I cannot ſee what claim Eubulides II. could have made to his property, except on a ſuppoſition, that the grandchildren ſucceeded *in capita*; for he could have gained nothing by repreſenting his mother, who was herſelf no *heireſs*, but a *portioneſs* only, and

would have been wholly excluded by her brother.

There is a difficult paſſage in the ſpeech on the eſtate of PHILOCTEMON, which relates to the queſtion now before us, and which ſeems to have been imperfectly explained by *Deſiderius Heraldus*, whoſe *Animadverſions on Salmaſius*, although equal in virulence to the invectives of Milton, are a very rich mine of learning on the ſubject of *Attick* and *Roman* law. His words are theſe: "The ἐπιδικασία or *conteſt for* "*marrying an heireſs*, took place, not only if "one or more daughters were left without a "brother, but alſo if one of them remained ſin-"gle, after their father had given the reſt in "marriage; as we may fairly collect from the "ſpeech of Iſæus on the inheritance of *Philocte-*"*mon*, where it appears, that Euctemon had "left ſeveral daughters, one of whom was un-"married, *together with a ſon who ſurvived him*; "and that a man, who called himſelf their "neareſt kinſman, claimed this daughter, whoſe "ſhare of Euctemon's eſtate was become liable "to conteſt. Now that Euctemon had ſeveral "daughters, and that one of them was unmar-"ried, is evident from the ſpeech; and the fol-"lowing paſſage alludes to the ἐπιδικασία: *Ob-*"*ſerve too the aſſurance of Androcles, who firſt* "*claimed for himſelf the daughter of Euctemon*,

" *as if ſhe had been the heireſs, and inſiſted on*
" *his right to a fifth part of the property, as if it*
" *had been liable to litigation, yet has now*
" *averred that Euctemon left a legitimate ſon.*
" *Has he not by this clearly convicted himſelf of*
" *having given falſe evidence? He certainly has;*
" *for, had a ſon of Euctemon begotten in wedlock*
" *been living, his daughter could not have been*
" *heireſs, nor could the eſtate have been open to*
" *controverſy.* By theſe words he impeached
" the proteſtation of Androcles, who aſſerted
" the right of Antidorus to Euctemon's inhe-
" ritance, as his legitimate ſon, but had himſelf
" demonſtrated the falſity of his own averment,
" by claiming the unmarried daughter of the
" deceaſed as her next of kin, together with a
" *fifth* part of the eſtate (we muſt ſuppoſe that
" *four* daughters were married), which he could
" never have done, had a legitimate ſon of Euc-
" temon been alive; ſince, in that caſe, the
" daughters were excluded from the ſucceſſion,
" and received portions from their father or
" their brother." How plauſible this appears!
but Iſæus expreſsly tells the court, that Eucte-
mon had only *two* daughters, the widow of
Chæreas, who had one daughter, and the wife
of Phanoſtratus, who had two ſons: now Er-
gamenes, Hegemon, and Philoctemon all died
without iſſue before their father, and we muſt

imagine, when we are examining the claim of Androcles, that the laſt of them had no ſon by adoption or will; in which caſe, if the wives of Chæreas and Phanoſtratus took as *daughters* and heireſſes of Euctemon, each of them would have been entitled to a *moiety* of his fortune, or, if the ſecond daughter had been alſo dead, her ſhare would have been divided between Chæreſtratus and his brother; but I am inclined to believe, that they claimed as *repreſentatives* of their three brothers, and it will preſently be ſhown in the proper place, how the widow, whom Androcles demanded in marriage, might have had a right to no more than a *fifth* part of the inheritance.

V. In regard to the *melancholy ſucceſſion*, as it was juſtly called, of parents to the poſſeſſions of their deceaſed children, there has been a great variety in the ordinances or cuſtoms of ancient and modern nations both in Europe and Aſia. The Jewiſh law of inheritances depended almoſt wholly on the following rules, 1. The children of the deceaſed ſucceeded to his property, and, on failure of them, his father inherited. 2. The heir being dead, he was repreſented by his iſſue. 3. Males were preferred to females in equal degrees. If Soſitheus, therefore, had been a native of Judea, his eſtate would have deſcended to his four ſons, the eldeſt, *Soſia*, taking his double

ſhare; but if all of them had been dead without children, the daughter would have taken the whole; ſhe dying childleſs, the property would have aſcended to *Soſia* I. the father of Soſitheus; and his heir would have been traced exactly in the ſame manner; that is, the brothers of the deceaſed would have ſucceeded as parceners, but the eldeſt would not have been entitled to a double portion: on default of brothers and their iſſue, the ſiſters would have been called to the ſucceſſion; and, none of them or their children being alive, the inheritance would have gone up to Calliſtratus the grandfather, if living; or, if not, to his ſons, the uncles of Soſitheus, and their iſſue, or, on failure of that line, to the aunts; but, had they too been dead without children, and had the great-grandfather Eubulides I. been alive, it would ſtill have aſcended to him, or devolved upon Philager and Euctemon the great uncles, and the heirs of their bodies; and they alſo failing, it would have been inherited by the other ſons of the anceſtor Buſelus, and their deſcendants repreſenting them, ſo as to be diſtributed, according to the ſtocks, among all the agnatick branches, the half-blood and the maternal relations being wholly rejected. Theſe rules of deſcent, which are conciſely laid down in the book of Numbers, and fully explained in the *Miſna*, have the merit of extreme

ſimplicity; and are in truth no more than limitations to all the anceſtors ſucceſſively, and the heirs male of their bodies, with remainders to their iſſue female, in the ſame manner as the children of the perſon deceaſed inherit his eſtate, but without the ſame regard to primogeniture.

At Athens, as well as at Jeruſalem, the mother was excluded from the inheritance of her ſon: this we learn from the ſpeech on the eſtate of Hagnias, where Theopompus mentions the claim ſet up for the *mother of the deceaſed*; *a relation*, he admits, *the neareſt of all by nature*; *but not recogniſed by law among the degrees of ſucceſſion*; and he prevailed, accordingly, by the ſuperior ſtrength of his title. There is, indeed, another part of the ſame ſpeech, which might lead us at firſt to imagine, that ſhe was only poſtponed to all the heirs on the paternal ſide, and that ſhe took an equal ſhare with a brother of the half blood; but the preceding paſſage is expreſs, that ſhe was not admiſſible to the inheritance; and it may be remembered, that ſhe bore a double relation to Hagnias, both as his mother and his ſecond couſin; for ſhe was the ſiſter of Stratius, and the *ſoror conſanguinea* of Theopompus himſelf.

The Decemviral law, which ſeems in this inſtance to have been borrowed from that of *Solon*, excluded mothers from the right of ſucceſſion

to their children; but this rigour was mitigated by the lenity of the Prætors, who ſometimes gave relief, on the ground of proximity, by their edicts *Unde Cognati*; and Claudius Cæſar would not ſuffer a mother to be deprived of the ſmall conſolation, which the fortune of her deceaſed ſon could afford her. It appears from the ſpeech of Cicero for A. Cluentius, that, by the municipal law of *Larinum*, a borough-town of Italy, the poſſeſſions of Avitus would have gone to his mother Saſſia, if he had died inteſtate; but the law of the twelve tables prevailed at *Rome*, till after the ſubverſion of the republick; the amendment of that unnatural ſtrictneſs was begun by the juſt-mentioned Emperor, promoted by the *Senatus conſultum Tertullianum* in the time of *Hadrian*, and completed, with ſome reaſonable reſtrictions, by the Juſtinianean code.

Our ſtatute of diſtributions, which was penned by a civilian, and in ſome meaſure reſembles the Roman law, gives the perſonal effects of inteſtate, who die without wife or iſſue, to his mother, as well as his father, in excluſion of their other children; and the ſtatute of James the Second, like the novel conſtitutions, ordained, that the mother ſhould take an equal ſhare with the brothers and ſiſters, and the repreſentatives of them: but the principles of the feudal policy,

from which our ſyſtem of real property was derived, made it impoſſible for lineal anceſtors to inherit; and, although our Henry the Firſt, like the Emperor Claudius, reſtored the right of ſucceſſion in the aſcending line, yet the old rigour ſtill prevails in England, as the ſame rule, drawn from the ſame ſource, obtains alſo in France. Whether a ſimilar maxim was adopted by the ancient *Arabs*, to whoſe military inſtitutions it ſeems agreeable, I have no certain knowledge; few monuments of that people remaining, except their wild ſongs on the ſubjects of love and war; but *Mahomed* expreſsly ordered, that "even if a man left a child, his parents "ſhould have each of them a ſixth part of his "poſſeſſions; that, if he died childleſs, his mo-"ther ſhould take a third part, or if he had "brethren, a ſixth, after payment of his debts "and legacies:" as a reaſon for this ordinance he adds, "You know not whether your parents "or your children confer upon you the greater "benefit." The ſucceſſion of aſcendants might have been repugnant to the very eſſence of feuds; but our laws would have been more natural, as well as convenient, if the tranſmiſſion of all property had been directed by nearly the ſame rules, and the diſtinction between lands and goods had been left to philoſophical analyſts and ſpeculative lawyers.

The maxim in *Littleton* prohibited only the *lineal* aſcent of an inheritance; but at Athens the *collateral* aſcendants alſo were excluded from the ſucceſſion; and this appears to have been the reaſon, why, if no teſtamentary guardian had been appointed, the Archon uſually gave the guardianſhip of the infant heir to his uncle, in conformity to the law of *Solon*, which directed that *none ſhould be nominated guardians, who would inherit the eſtate on the death of the minor*; an ordinance, which confirms the wiſdom of our common law. When the heir had ſeveral uncles, the magiſtrate choſe one of them according to his diſcretion: thus *Dinias* was appointed guardian to his nephews, the grandſons of Polyarchus; for, although on failure of their paternal and maternal kinſmen within the limited degrees, he might by poſſibility have ſucceeded *jure agnationis*, yet ſo remote a contingency was not conſidered; and guardians are expreſsly named by the old grammarians among the χηρωσαὶ or *diſtant relations*, by whom Phænops complains in Homer that his poſſeſſions would be divided, ſince his two ſons, Xanthus and Thoön, had periſhed in battle. Ariſtomenes, for the ſame reaſon, was nominated guardian to his brother's children; and here we may take occaſion to illuſtrate or correct the rule as to the marriage of heireſſes to their neareſt kinſmen,

who, if they had not been living, would have inherited the eſtate; for the orator ſays, that Ariſtomenes had the option *either to take his niece himſelf* or demand her in marriage for his ſon; ſince if ſhe had been dead, the fortune of Ariſtarchus would have devolved upon him, Cyronides having been previouſly emancipated: but no ſmall difficulty ariſes from the ſecond ſpeech, in which it is ſaid more than once, that, if Phila had been a legitimate child, and neither of her couſins would have married her, ſhe might have been claimed by Lyſimenes, or Pylades, or Chæron, who, if they were the maternal uncles of Pyrrhus, as I firſt imagined, could not poſſibly have been his heirs, and, if they were his paternal uncles, muſt have been poſtponed to all his kinſmen, as far as the ſecond couſins, both on his father's and on his mother's ſide; ſo that we muſt ſuppoſe, either that he had no ſuch kinſmen, or that the rule before laid down is erroneous, and that an heireſs might be claimed by her relation in the *neareſt degree*, whether he could have inherited the eſtate or not.

The perpetual excluſion of the maternal uncle from the right of ſucceſſion, would naturally induce the Archon to appoint him guardian to his ſiſter's ſon; but if any juſt exception could be made to him by the mother herſelf or any other friend, he might certainly be ſuperſeded:

thus Diocles, a man accuſed of the blackeſt crimes, obtained the guardianſhip of his nephew, by intimidating his ſiſter, and preventing her from oppoſing his claim; but Thudippus, who had been at variance with his brother Euthycrates, and was even ſuſpected of having occaſioned his death, was not thought a fit perſon to manage the affairs of young *Aſtyphilus*, whom the magiſtrate therefore committed to the care of his father-in-law Theophraſtus.

In the fourth ſpeech we ſee this delicate and important office given to Dicæogenes III. who moſt infamouſly abuſed his truſt, and who, if his father Proxenus was really uncle to the deceaſed, muſt have been *proprior ſobrinus*, or *oncle à la mode de Bretagne*, as the French expreſs that relation, or *Welch* uncle, as we ſometimes call it, to his ward Cephiſodotus and the other complainants; whence it may be inferred, that he was not within the degrees of ſucceſſion; but this point I cannot determine with poſitive certainty.

Among other articles of a guardian's duty at Athens, he was required by the law to let the eſtate of the minor to the beſt advantage, taking good ſecurity from the leſſees for the payment of the rents; for which purpoſe the guardian preſented a *petition*, and a jury was choſen to eſtabliſh by their verdict the propriety of the

tranſaction: but a very remarkable paſſage in the fifth ſpeech of Iſæus, ſhows how negligently this duty was performed; for, when the aſſociates of Alce, who had a complete aſcendant over old Euctemon, falſely ſet forth in their petition, that her two baſtards were the adopted ſons of Philoctemon and Ergamenes, and that they were teſtamentary guardians of the infants, praying that their eſtates might be let to farmers, the court not only neglected to call for proofs of thoſe allegations, but proceeded as of courſe, and would actually have delivered the property of Chæreſtratus to a vile ſet of impoſtors, if ſome of his friends had not ſeaſonably been informed of the confederacy. It is probable, indeed, that, when the proclamation was made, the crier called upon all perſons intereſted, to ſhow cauſe why the land or houſes ſhould not be let; but they ſhould have had longer notice; and the whole paſſage is ſo difficult, that the more I reflect on the nature and conſequences of ſuch a conſpiracy, the leſs I underſtand, how it could ultimately have availed the conſpirators; nor is it poſſible, that ſuch a tranſaction could long have been kept ſecret at Athens, where ſo flagrant an inſult on publick juſtice would have been puniſhed with the laſt ſeverity. *Heraldus*, who of all modern juriſts has made the beſt uſe of Iſæus, comments at

large on this paſſage, but expreſſes ſome little doubt of its true meaning: his interpretation, however, coincides in general with mine; and I incline to agree alſo with Petit, who conceives that the eſtates of minors were let in the month of September, or the beginning of the Attick year, when the old leaſes uſually expired; at which time, as he aſſerts, the courts of juſtice were ſupplied with their proper *complement* of jurymen, whence he explains the words of my author, "as ſoon as the courts were full," which Heraldus tranſlates, *proximis judiciis et frequenti foro.* I may add, that a ſentence in the eighth book of *Pollux* favours the notion of Petit; but the inveſtigation of theſe minute points belongs properly to notes.

It appears from many paſſages of my author, as well as from the elegant ſpeech of Lyſias againſt Diogiton, and the known caſe of Demoſthenes himſelf, how frequently and ſcandalouſly the Athenian guardians injured their wards: thus Archedamus, who aſſiſted APOLLODORUS as his advocate and adviſer, gained two decrees by a great majority againſt Eupolis, who had defrauded his nephew of above ſix hundred pounds; while the conduct of Dicæogenes and of Diocles was ſtill more iniquitous. At the age of ſixteen a ward might compel his guardian to account by a ſuit brought in his

own name; and Demoſthenes proceeded againſt Aphobus in his ſeventeenth year; but it ſeems to have been doubtful, whether, during his minority, he could have maintained a civil action againſt his guardian for an eſtate, to which he was entitled; for, when Theopompus complained that he was cruelly and unneceſſarily haraſſed with an εἰσαγγελία or *publick proſecution*, and urged, as an argument in his favour, that the friends of young Stratocles had not regularly claimed his moiety of the inheritance, they anſwered, that a *minor could not bring a civil action againſt his guardian:* this he denied, and challenged them to produce the law, by which ſuch an action was forbidden; nor does there ſeem, indeed, any good reaſon for ſuch a prohibition. Had it been really as they contended, yet Theopompus intimated an ingenious mode of obtaining juſtice: "let a petition, ſays he, "be preſented to the Archon, that the eſtate "may be let to farm, and then will the leſſee "have a right to commence a ſuit againſt me, "if I refuſe to give him poſſeſſion."

VI. As Hagnias in fact died childleſs, his brothers, the ſons of Polemo, would have inherited his poſſeſſions together, and their children would have ſucceeded *to the ſhares of their fathers*, by the expreſs words of Solon, to the excluſion, I imagine, of the ſiſters; and, if none of his bro-

thers or their children had been living, the ſiſters would have been called to the ſucceſſion; but, as the legiſlator has not ſaid that the children of ſiſters ſhould ſucceed to the ſhares of their mothers, it is natural to conclude, that they took *in capita*; and this is the only way, in which I am able to ſolve the difficulty in the ſpeech on the eſtate of Philoctemon, where it appears that Androcles claimed the widow of Chæreas with a *fifth* part of the inheritance; for ſhe would have been entitled to a greater ſhare as heireſs either of her father or of her brothers, unleſs we ſuppoſe, that the property of Euctemon was divided in equal proportion among the *two* ſiſters and their *three* children. Had Phanoſtratus and his wife been dead, leaving only one ſon, and had the other ſiſter been ſingle or childleſs, the eſtates of her brothers, dying inteſtate and without iſſue, would have gone in moieties to Chæreſtratus and his aunt, according to the caſe of Thraſybulus, who took an equal ſhare with the wife of Pronapis, of the fortune left by his uncle the ſon of Eupolis; but it ſeems probable, that if the wife of Æſchines had been alive, ſhe would have been entitled to a *third* part of the inheritance.

Thus, on the death of DICÆOGENES, his four ſiſters and all their children ſeem to have had a title to equal portions of his eſtate; for

Menexenus and Cephiſodotus are ſaid expreſsly to have claimed the ſame ſhare with their couſin, who ſpoke in the cauſe, and *whoſe* ſiſter (for I adopt the emendation propoſed by Reiſke) is alſo ſaid to have been entitled equally with her mother. Theſe rights were variouſly blended by the intermarriages of the firſt couſins; and here it may be obſerved, that a brother was permitted at Athens, as we learn from the ſeventh ſpeech of Iſæus, to marry the daughter of his father, not of his mother; but I recollect no Athenian law by which a man was reſtrained from marrying the ſiſter of his wife, a contract forbidden by the Alcoran, and commonly ſuppoſed to be prohibited by the eighteenth chapter of *Leviticus:* my opinion on that ſubject, which I have had no reaſon to change, has already been made publick by my much-lamented friend Mr. ALLEYNE, whoſe virtues, learning, and talents promiſed no leſs honour to himſelf than advantage to his country. We might here enumerate thirty caſes, in which the poſſeſſions of a perſon deceaſed were diſtributable at Athens to his ſons or daughters, brothers or ſiſters, or their children, ſeverally or in concurrence; but, if a diſtinction be made between thoſe who claim through females and thoſe who derive their title through males, the number will amount to ninety-ſix; and in all the poſſible caſes, the

reſpective claims may, I think, eaſily be adjuſted by the help of the preceding rules.

VII. I now proceed to the couſins of Hagnias, and muſt begin with remarking, that Solon made an eſſential difference between them and the lineal deſcendants of a perſon deceaſed, or his brothers and ſiſters and their children; for the preference to males and the iſſue of males was applied to couſins only, and *M. Auger* is certainly miſtaken in ſuppoſing that nieces or the children of nieces were poſtponed to nephews or their ſons. The grammarian, who wrote the Greek arguments to Iſæus, fell into the ſame error; although the diſtinction is fully explained by the orator himſelf in the ſixth ſpeech; where he ſays, "that the law gives "the ſiſter and the ſiſter's ſon an equal ſhare "of their father's and their brother's fortune: "but that when a couſin dies, or any kinſman "in a remoter degree, the male relations are "called to the ſucceſſion before the female; for "it is enacted, that males and the children of "males, if any be living, ſhall be preferred, al-"though they are leſs nearly related to the de-"ceaſed." The children, therefore, of *Ciron's* daughter had a better title than his nephew, whether he was a brother's or a ſiſter's ſon; and the fine reaſoning of Iſæus on that point was, indeed, as he intimates himſelf, almoſt ſuper-

fluous; but the ſiſter of Stratius II. who ſtood in the ſame degree of relation to Hagnias with Theopompus, was wholly excluded from the ſucceſſion: thus, if APOLLODORUS had died without having appointed an heir, his eſtate would have deſcended to Thraſybulus, his firſt couſin once removed, in preference to the wife of Pronapis, who was nearer by one degree; but as he waived his right and admitted the adoption of Thraſyllus, the female couſin and her huſband ſet up a claim to the inheritance.

The Attick laws preſerved by Demoſthenes, and the recitals of them in Iſæus, mutually correct and explain each other: thus the law of inheritances in the ſpeech againſt Macartatus is ſupplied by the opening of the ſpeech on the eſtate of Hagnias; and the paſſage above cited from my author muſt be amended from the compoſition of his immortal pupil, by adding the words *provided that they belong to the ſame branch*; on which proviſo the title of young Eubulides ſolely depended. *M. Auger* has tranſlated this paſſage in the following manner: "males and the children of males ſhall have the "preference, provided that they ſtand in the "ſame degree, and be not farther removed;" but he unqueſtionably miſunderſtood it; and the article of *ſucceſſions*, indeed, is the leaſt perfect of any in his valuable work.

Few words in the Greek and Latin languages are more vague than thoſe, which expreſs the different relations of ἀνεψιότης or *couſinage*; but I muſt leave a preciſe interpretation of them to philologers, and be contented here with obſerving, that, in Iſæus and Demoſthenes, ἀνεψιοὶ always mean the ſons of brothers and ſiſters, or *firſt* couſins, whoſe children, or the *ſecond* couſins, were called ἀνεψιαδοῖ by the Athenians, and by the Romans, *ſobrini*; which laſt relation both Eubulides II. by his father Philager, and the three ſons of Charidemus, bore to Hagnias, whoſe property was in diſpute. A firſt couſin *once removed* was alſo diſtinguiſhed by the name of ἀνεψιαδῆς, or ſon of the ἀνεψιὸς: thus Cleon and ASTYPHILUS were firſt couſins; and the ſon of Cleon was ἀνεψιαδῆς to the deceaſed, but not, I believe, converſely; although the ſons of Aſtyphilus and of Cleon would have been reciprocally ἀνεψιαδοῖ to each other. The attentive reader muſt have anticipated my remark, that Cleon would have been heir at law to his firſt couſin, if his father Thudippus had not been adopted by another family; and this was the title of Hagnon and Hagnotheus to the eſtate of NICOSTRATUS: thus, on the death of Hagnias, the ſon of his aunt Phylomache was entitled to the ſucceſſion; for, although he derived his relation to the deceaſed through a female, yet

Theopompus, who claimed wholly through males, *belonged to a different branch* or family, namely, to that of Stratius I.; and Wolfius, as Perizonius obſerves, was miſtaken in ſuppoſing that Theopompus had the better title. Had a *brother* of Polemo, indeed, left a ſon, he would have excluded Eubulides, and not only he, but *his* ſon too, *although in a remoter degree*, would have been preferred. On failure of firſt couſins and their children, the *ſecond* couſins on the father's ſide were admitted to the inheritance, which they took, as in their own right, *in capita*; although the firſt couſins once removed would have taken *in ſtirpes*, as repreſenting their fathers: ſo Theopompus, Stratocles, Stratius, Eubulides, and Meneſtheus, would have ſucceeded to *fifth* parts of the eſtate, the daughter of Calliſtratus being rejected, as well as Stratonides, the ſon of Oenanthe; but Theopompus, the only ſurviving ſecond couſin, would have been entitled to the whole, if Eubulides had not borne a double relation to Hagnias, one part of which Iſæus very artfully ſuppreſſes. As to the claim ſet up by the ſon of Stratocles, it ſeems to have been incapable of ſupport; for, although there be ſome little variation in the different copies of the law, yet we may ſafely conclude, that the children of ſecond couſins were not within the legal degrees of ſucceſſion; and ſo the court at

Athens determined, for Theopompus died in poſſeſſion of the whole fortune.

No ſecond couſins being alive, the half-blood was admitted in the ſame order; that is, the brothers and ſiſters, nephews and nieces, on the mother's ſide, or, on failure of them, the firſt couſins and their children, and, laſtly, the ſecond couſins, but no farther; for, if no maternal kinſmen exiſted within thoſe degrees, the *agnati*, or next of kin on the paternal ſide, were the heirs at law; and their proximity was traced by counting the degrees from the common anceſtor: thus, if Theopompus too had been gone, the half-brother *Glauco* would have ſucceeded; or, he being dead without iſſue, the maternal firſt couſins or iſſue of Stratius II. and, perhaps, of Theopompus and Stratocles. I muſt here again mention a moſt difficult paſſage in the tenth ſpeech, to which I before alluded. It is there ſaid expreſsly, that, "if Glauco had relinquiſhed "his claim, the *mother of him and of Hagnias* "might then have juſtly entered into litigation "for the property of her ſon; and, as ſhe would "have diſputed with perſons by no means ad-"miſſible to the ſucceſſion, ſhe would clearly "have obtained a ſentence for the moiety, both "law and natural juſtice conſpiring in her fa-"vour." Now the mother of Hagnias was his ſecond couſin on the father's ſide; and, as ſuch,

would have been entitled to his inheritance on failure of *males* in the ſame degree, to the excluſion, as one would have imagined, of the half-blood: how then could her ſon Glauco have claimed before her? What occaſion had ſhe to wait for a waiver of his right? Was a female paternal ſecond couſin poſtponed to a *frater uterinus* by the words of the law, which gave a preference to males? The more I conſider this paſſage, the more it perplexes me; and I have not yet found any ſatisfactory ſolution of the difficulty.

I will cloſe this ſection with obſerving, that, if the preceding interpretation of the laws be right, and males were only preferred *in the ſame branch*, the title of the ſecond Phylomache was better than that of Theopompus, who muſt, therefore, as Demoſthenes aſſerts, have gained a verdict in his favour by ſome contrivance or ſurpriſe.

VIII. I have all along proceeded on a ſuppoſition that the heirs of a perſon deceaſed were *legitimate children*, who are defined by the firſt Attick law to be thoſe *born in wedlock of a woman duly betrothed*; but the thirteenth law, which excluded baſtards from *the ſucceſſion to ſacred or civil rights*, muſt have been re-enacted after the time of Solon, who was appointed legiſlator one hundred and eighty years before the archon-

ſhip of Euclid. We have already obſerved that his laws were made only for a century, and, though they were all perpetuated by Diocles, yet that concerning *baſtards* is ſaid to have been revived by *Pericles* and *Ariſtophon*, who added to the definition of legitimacy, that *both parents muſt be citizens*; and this point we ſee carefully proved in the fragment of the ſpeech for Euphiletus. The laws of the Greek iſlands, however, ſeem to have differed in this reſpect from thoſe of Athens; for in Ægina, as we learn from Iſocrates, the illegitimate ſiſter of Thraſylochus inſtituted a ſuit againſt his deviſee, who, inſtead of reſting his defence on her inability to inherit, was ſatisfied with proving the will, and diſcourſing at large on the friendſhip which had ſubſiſted between him and the deceaſed.

I come now to the ſecond part of my commentary, in which I propoſed to explain the modes of *appointing* an heir among the Athenians, on failure of *natural* heirs or lineal deſcendants.

I. Frequent mention is made by the Grecian orators of *deſolate heritages*, as they are called by ISAIAH: now a family was conſidered as ἐρημωθέν or *become deſolate*, when the laſt occupier of an eſtate left no ſon by nature or by appointment, who might perform holy rites at his tomb, preſerve his race, and, by tranſmitting his

name to a perpetual chain of ſucceſſors, confer on him a kind of immortality. As this idea muſt have been extremely pleaſing to men, whoſe views of a better life were rather faint glimmerings of hope than well-founded expectations, they were very early indulged with the power of *adopting* ſons: hence, as Iſæus obſerves in the ſixth ſpeech, "all they, who thought "their end approaching, took a provident care "that their families might not become extinct; "and if they had no heirs by birth, yet they left "ſons at leaſt by adoption." The preſervation of names might have been one reaſon for the preference given to males in the Attick laws of ſucceſſion; and it is very remarkable, that, both in Hebrew and Arabick, the word for a male implies *remembrance*, and that for a female, *oblivion*; but this diſtinction would not have exiſted, if it had been enacted, that the huſband of an heireſs ſhould either aſſume the name of her anceſtor, or give it to one of his ſons: even in our own country, and in very modern times, we ſee a number of deviſes to men *on condition* that they take the names of the deviſors, or to women, *provided that* they marry perſons of a particular name; ſuch has been the fondneſs of mankind, in moſt ages and nations, for the jingle of empty ſounds! At Athens children were named on the tenth day after they were born,

as on the *luſtrical* day of the Romans; and male infants, as we ſee in the pedigree of Hagnias, uſually received the names of their grandfathers, or ſome compounds of them, a method recommended in the laws of Plato. Thus one would have thought, that the ſon of Oenanthe ſhould have been called *Cleocritus*, and that the name of *Stratonides* ſhould have been given to a grandſon of Stratius; but parents were at liberty to impoſe names as they pleaſed; and Soſitheus in Demoſthenes mentions the motives which induced him to call his four ſons, Soſias, Eubulides, Meneſtheus, and Calliſtratus. Female children alſo were frequently named after their grandmothers: thus the name of Phylomache deſcended to her grand-daughter; and the uncles of PYRRHUS aſſerted, that he gave his daughter Phila the name of his own mother *Clitareta*, which would have been a ſtrong argument for her legitimacy. This cuſtom was uſeful in keeping the branches of a family diſtinct, eſpecially as males were preferred only in the ſame branch; and it was forcibly urged againſt Theopompus, that neither his brethren nor his anceſtors bore the name of *Hagnias*, or of *Eubulides*, nor any ſimilar to them, ſuch as Hagnon, Hagnotheus, or Eubulus; while the other two branches were equally clear of any name like that of Stratius, from whom he deſcended: it may be worth

while to add, that a change of names often took place at Rome, as M. Brutus, who had been adopted by his uncle, is named Q. Cæpio Brutus in a decree of the ſenate; but it was uſual, on ſome occaſions, to alter the termination only, as Octavius, after the death of his adopter C. Cæſar, was called *Octavianus*; and, for a ſimilar reaſon, one of Cicero's letters is addreſſed to T. *Pomponianus* Atticus.

The publick intereſt alſo was greatly concerned in preventing the deſolation of heritages; for it was expedient, that eſtates, which contributed to defray the general expenſes, ſhould be preſerved as long as poſſible; and this mode was preferable in a free government to the laws of eſcheats and fiſcal claims to vacant inheritances: hence we find, that SOLON directed the chief magiſtrate to prevent the total extinction of families; and hence, if a man died inteſtate and childleſs, it was incumbent on the next heir to emancipate one of his own ſons or near relations, and appoint him, by a kind of adoption, ſon to the deceaſed, together with his name and a conſiderable portion of his eſtate. Thus, on the death of Apollodorus the ſon of Eupolis, one of his ſiſters ought to have given her own ſon both his name and part of his fortune; but, as this duty was neglected by the wives of Pronapis and Æſchines, their firſt couſin

took care to adopt Thraſyllus, whilſt he lived; and the ſpeech on the eſtate of APOLLODORUS is ſo clear and full a commentary on this method of adoption *during life*, that it were quite ſuperfluous to write more diffuſely on the ſubject: a few obſervations, however, may be added without impropriety.

Both at Athens, as we learn from Iſæus, and at Rome, as A. Gellius informs us, an adopted ſon acquired all the rights, both ſacred and civil, and ſucceeded to all the advantages and burdens, of the new family into which he was introduced; nor was he conſidered in any other light than that of a ſon by nature born in lawful wedlock, whence the orator aſks, "how Philocte-"mon could have died without a child, when "he had actually adopted his nephew;" but all pretenſions whatever to the inheritance of his natural father were wholly loſt by adoption or emancipation: thus Cleon was firſt couſin to ASTYPHILUS, but as his father had been adopted by another perſon, he no longer bore any relation to the deceaſed; yet, if Thudippus had left a ſon in the houſe of his adopter, and returned, as he lawfully might, into his ancient family, and if Cleon had been born after that return, either he or his ſon would have been heir to Aſtyphilus, in preference to the half-brother. A maternal inheritance, indeed, was not

loſt by adoption; for the father only was changed: ſo, when Thraſybulus was adopted by Hippolochides, he ſtill retained and aſſerted his title to the eſtate of his mother's brother, a moiety of which he actually received; and he would have taken, as male couſin, the whole fortune of Apollodorus, if the adoption of Thraſyllus had been illegal.

When the adopted ſon died without children, and conſequently without having returned to his natural family, the poſſeſſions of the adopter deſcended to his right heirs; as, on the deceaſe of Endius, the ſiſter of PYRRHUS demanded and obtained his eſtate, the illegitimacy of Phila and the legality of the adoption being clearly proved: had Phila been legitimate, it appears from the pleadings in the cauſe, that an adverſe poſſeſſion of *twenty* years would not have barred her title; and we muſt ſuppoſe, that the limitation of *five* years related only to actions brought, and not to *proteſtations* or *entries* made by lineal deſcendants, who took poſſeſſion, if they pleaſed, without inſtituting a ſuit for their inheritance. The ſpeech of Demoſthenes, in the cauſe between *Ariſtodemus* and *Leochares*, contains a great deal of curious learning concerning adoptions; for the principal queſtion was, *whether an adopted ſon could himſelf adopt another*, and the argument of Demoſthenes, who maintained

the negative, was in ſubſtance this: "An adopted "ſon cannot *deviſe* the property acquired by "adoption, for Solon gave the power of deviſing "only to *unadopted* citizens; he cannot, there- "fore, by *adopting* a ſon, give him a right to "the ſame property, for a deviſe is in fact a "ſpecies of adoption, and both kinds were pro- "hibited together; beſides, there cannot be two "adopted ſons at the ſame time; and the law "permits the return of the firſt in one caſe only, "that is, when he leaves a legitimate ſon of his "own in the family of the perſon who adopted "him." As to the other queſtion, *who was heir at law to Archiades*, there was no kind of difficulty in it; for the complainant deſcended from a *brother*, and was therefore preferred by the expreſs words of the law to the iſſue of a *ſiſter*; but how Ariſtoteles could be conſidered as heir to Leocrates, who was related to him in the *ninth* degree of the civilians, I am at a loſs to determine: there are many other dark paſſages in the ſpeech, which I leave to the interpreters of Demoſthenes, it being my ſole buſineſs at preſent to illuſtrate Iſæus. One thing only I may remark with *M. Auger*; that no objection was taken to the adoption of Leocrates, becauſe the ſuppoſed adopter had never been married; and I at firſt thought with him, that *the adopted ſon muſt neceſſarily have been a genuine citizen*;

but the fragment in defence of *Euphiletus* ſeems to prove, that foreigners were ſometimes adopted, unleſs we ſuppoſe, as I think we may, that Iſæus was there ſpeaking of *ſuppoſititious*, not of adopted, ſons. The true end and eſſential conditions of an adoption at *Rome* are explained with admirable perſpicuity by Cicero, in his noble ſpeech *for the reſtitution of his Palatine houſe*, in which he proves that *Clodius* had been illegally adopted: it appears from that whole buſineſs, that a Roman, properly qualified in other reſpects, might adopt a man of a different rank from himſelf; but ſuch an adoption, it ſeems, was forbidden by the laws of *Ægina* and *Siphnus*, either during life or by teſtament, whence Iſocrates takes pains to ſhow, that the deviſee of Thraſylochus was *a citizen inferiour to none of the Siphnians*, and educated in the ſame manner with his friend.

II. The power of deviſing property, which SOLON introduced at Athens but two hundred years before the birth of Demoſthenes, is next to be conſidered; and the preceding ſpeeches evidently ſhow how much litigation and impoſture followed the introduction of it; an objection, indeed, which lies in ſome degree againſt the laws of ſucceſſion; for, when NICOSTRATUS was dead, there appeared no fewer than ſeven falſe claimants of his eſtate by a variety of

fictitious titles. I cannot aſcribe the deſtruction of Athenian liberty to this alteration made in the ancient law, and am inclined to doubt the *fact* of its having produced exceſſive wealth in ſome citizens, whilſt others were impoveriſhed: there are many inſtances in the Greek orators of perſons, who had ſucceeded, as heirs, to ſeveral eſtates; but the diſadvantages and odium, which attended an exceſs of riches, were conſiderably greater at Athens than the benefits or pleaſure ariſing from affluence. Various cauſes contributed to the ſubverſion of the Athenian ſtate: had Philip never exiſted, or been leſs ambitious, had Hyperides and Demoſthenes underſtood the art of war as well as that of rhetorick, had the gold of Perſia and Macedonia been leſs powerful, and the abettors of tyranny leſs aſſiduous, Athens might have continued to flouriſh in ſplendour and freedom, whether Solon's inſtitution had taken place, or the former ſtrictneſs had prevailed. Plutarch, indeed, whoſe judgement is highly to be reſpected, aſcribes the decline of the Spartan government to a ſimilar relaxation of the old ſeverity by the law of *Epitadeus*, which permitted a deviſe of lands or goods from the natural heir, in oppoſition to the ordinance of LYCURGUS, which prohibited any alienation of them; and he imputes even the propoſal of ſuch a law to a motive of reſent-

ment or of covetouſneſs; for *Epitadeus*, ſays he, was a proud ſeditious man, and had quarrelled bitterly with his own ſon; but the permiſſion given by him to alien an eſtate at all, and not merely to leave it by will, was the evil of which the hiſtorian complains; for, when moſt of the inheritances in Lacedæmon had been transferred from the lawful heirs, there remained only ſeven hundred genuine citizens, among whom not more than one hundred were in poſſeſſion of lands: yet, if the Athenian ſilver had not found its way into *Sparta*, the law would have been innocent, although leſs expedient in a military, than in a commercial, nation.

Whether the law of Solon was politick or not, it had the merit of conciſeneſs and ſimplicity, and the ſtudent may not be diſpleaſed to compare it with the ſtatute of our Henry the Eighth, who certainly was not a Solon: but it would be foreign from my deſign to diſcourſe upon it at large, much leſs to ſubjoin a treatiſe on deviſes, or to analyſe every word in the well-known definition of *Modeſtinus*. So many books have been written upon wills by civilians and common lawyers, that the ſubject is almoſt exhauſted, and the paſſages in my author, where mention is made of them, are ſo clear as to require very little explanation: it will be ſufficient, therefore, to conclude this commentary, as I at

firſt propoſed, with a few remarks on the execution and revocation of an Athenian will. I have already obſerved, that the *appointment* of an heir by a man's laſt teſtament was regarded at Athens as a mode of *adopting* a ſon; and of this teſtamentary *adoption*, for ſo the Greek orators call it, we have ſeveral examples in Iſæus: thus the deviſe of *Philoctemon* is treated all along as an adoption; but his power to deviſe or adopt in the lifetime of his father is ſomewhat queſtionable, ſince in fact he nominated a repreſentative of himſelf as ſon of Euctemon. His power, however, being admitted, let us examine the manner in which it was exerciſed. We may take notice, in the firſt place, that, although *Cato* the *Cenſor* repented of his having paſſed *a ſingle day without a will*, yet the old Athenians were not ſo provident; for they commonly deferred the execution of their wills, till they were impelled by the apprehenſion of ſome approaching danger: thus, when *Apollodorus* was on the point of ſailing with the army to *Corinth*, he left his eſtate, in caſe of his death, to the daughter of *Archedamus*; and it was argued by the ſon of Theophraſtus, that, ſince *Aſtyphilus*, who was a ſoldier by profeſſion, had made no will before his campaigns in the *Corinthian* and *Theban* wars, it was very improbable that he ſhould have choſen to make one, juſt before his adven-

ture to *Mitylene*, in which he was leſs expoſed to peril. Theopompus alſo, whoſe buſineſs it was to inſiſt, that *Hagnias* had deviſed his fortune to Glauco, mentions, as a reaſon why he deviſed it at all, that *he was preparing to ſail on a publick embaſſy*; and Philoctemon is ſaid to have adopted Chæreſtratus by will, leſt he ſhould periſh in one of his frequent expeditions by land or ſea: if, in theſe caſes, poſſeſſion of the eſtates had been given to the donees, they would have been complete *donationes mortis cauſâ*, many examples of which may be found in the ancient poets and hiſtorians of Greece; but they ſeem to have been regular deviſes according to the law of Solon. The expreſs words of that law, as well as the common ſenſe of mankind, required that a teſtator ſhould have the full enjoyment of his reaſon and liberty, without which no inſtrument executed by a man can with any propriety be called his *will*: thus it was contended, that Philoctemon's diſpoſition of his property was exactly agreeable to the law, ſince he had no legitimate children, and had been advanced by his fellow-citizens to the higheſt honours on account of his ſuperiour talents; and it was no uncommon dilemma, of which we have examples at the concluſion of the firſt and eighth ſpeeches, "that either no will at all had "been made by the deceaſed, or that, if it had,

" it was invalid, ſince he could not have diſin-
" herited his relation, whom he always loved,
" or adopted a perſon, whom he always ab-
" horred, without having loſt his ſenſes by the
" effects of poiſon or diſeaſe." From this *ſpecious* mode of reaſoning proceeded the *Roman* doctrine of *inofficious* teſtaments, which were ſet aſide on a preſumption of inſanity, or of ſuch caprice as amounted to folly; thus the will of *Æbutius*, who, having two daughters of equal merit, left his eſtate to one of them excluſively of the other, was conſidered as a proof of madneſs.

The power and underſtanding of an Athenian teſtator being indiſputable, he wrote his will in the ſimpleſt and cleareſt manner, and commonly in the following form: " Philoctemon the Ce-
" phiſian made this teſtament. If any accident
" ſhould befal me, and if my wife ſhould not be
" delivered of a child, I give all my eſtate and
" intereſt to my nephew Chæreſtratus, whom I
" adopt as my ſon; and I bequeath one talent
" to my wife, together with my houſe at Ce-
" phiſia." We may collect from a paſſage in the eighth ſpeech, that it was not abſolutely neceſſary for a will to be atteſted; it was uſual, however, to have witneſſes, and prudent to convene as many friends and relations as could be aſſembled, in whoſe preſence the will was ac-

knowledged by the teſtator, but the contents of it were ſeldom diſcloſed: it was then *ſealed up* for the purpoſe of ſecrecy, and generally committed to the care of ſome kinſman, who was not intereſted in the deſtruction of it, or whoſe integrity was wholly unſuſpected. Thus the teſtament of old *Euctemon* was depoſited with his friend Pythodorus, and that of his ſon with his brother-in-law Chæreas; and the pretended will of *Aſtyphilus* was ſaid to have been left in the cuſtody of his uncle Hierocles; but the Athenian wills were ſometimes placed, for greater ſecurity, in one of the publick temples, a method frequent alſo at Rome; and the will of Cleonymus was, probably, ſecured in this manner, ſince, when he wiſhed to cancel it, he ſent Poſidippus for the ἀστυνόμον or *Ædile*, who had the care of all the great buildings at Athens. Notwithſtanding theſe precautions, a number of forged wills were continually ſet up; and, notwithſtanding the wiſe proviſions of the law, as great a number were obtained by improper influence; but, though the profligacy of the Athenians has been aſcribed to the form of their government, yet, if we conſider the multitude of forgeries and impoſitions of the ſame kind, which almoſt every circuit in England brings to light, we ſhall be forced to confeſs, that the people of Attica were profligate, not *becauſe* they

had a popular government, but *although* they had it; and we muſt look for another ſource of their wickedneſs and of our own, which I conceive to be this; that, "in artificial ſociety, "money ſoon acquires a value inconſiſtent with "virtue and honeſty."

There is a vein of juſt reaſoning on the evidence of wills in the ſpeech on the eſtate of *Nicoſtratus*, whoſe teſtament, as well as that of *Aſtyphilus*, appears to have been forged; but he muſt be an unſkilful advocate, who cannot make his own caſe plauſible; and, as the arguments on the other ſide are not extant, it is impoſſible for us to decide the cauſes with juſtice: the ſame may be obſerved as to all the queſtions of mere fact, which ariſe in the ſpeeches of Iſæus; but ſo many diſintereſted witneſſes, whoſe depoſitions are preſerved by his pupil, confirm the pedigree of HAGNIAS, that it is equally impoſſible for us to doubt the truth of it.

If PHILOCTEMON had adopted Chæreſtratus in his life-time, an afterborn child would have been coheir with his adopted ſon; but he might have deſired to leave his entire poſſeſſions to his own iſſue; and ſuch an adoption would have been irrevocable, except for the moſt weighty reaſons, whilſt a teſtamentary appointment might be revoked at pleaſure. The revocation of wills was uſually performed at Athens

with great ceremony, and in the preſence of a magiſtrate; for thoſe, with whom they had been depoſited, would not ſurrender or unſeal them, except by the authority of the court, leſt they ſhould at any time be charged with having altered them: hence Pythodorus refuſed to give up the teſtament of Euctemon, and, when he was called before the Archon, declared that he could have no wiſh to detain it, but inſiſted, that, as Chæreas was preſent, when Euctemon committed the will to his charge, and as an infant daughter of Chæreas was living, whoſe intereſts might be affected by the revocation of it, he was authorized to keep it, until her guardian or huſband could ſecure him from any trouble on her account; and the court approved of his caution; but the will was revoked, it ſeems, by the *publick* declaration of Euctemon, that it was no longer valid.

The ſpeech on the eſtate of Cleonymus clearly ſhows the formality with which a teſtament was reſcinded; and the queſtion on the *virtual* revocation is diſcuſſed with elegance; nor could Iſæus be eaſily anſwered, if the *actual* revocation was in truth prevented by the contrivance of the deviſees, from which both reaſon and juſtice would have forbidden them to derive advantage. I have hitherto purpoſely abſtained from citing *Engliſh* caſes on the important ſub-

ject of deviſes and revocations, becauſe I wiſhed to avoid even the appearance of profeſſional oſtentation, and becauſe the books, in which they may be read, are on the ſhelves of every ſtudent, who will find it an agreeable exerciſe to conſider how theſe Athenian cauſes would have been decided at Weſtminſter; but I cannot help alluding to the caſe of *Burton* and *Gowell* in the thirty-fifth year of Elizabeth, where a man executed a deviſe at Pulham, and afterwards lying ſick at Sterſton, ſaid, "*my will made at Pulham ſhall not ſtand,*" and it was holden that theſe words revoked the will, becauſe the verb apparently future denoted a preſent reſolution, but a declaration of a future intention would not have been ſufficient: ſuch words, however, ſpoken in private, would not have amounted to a revocation at Athens, any more than with us after the ſtatute of frauds.

Before I conclude this commentary, I muſt take notice of a few circumſtances in one or two of the ſpeeches; and, firſt, of a paſſage in that juſt mentioned, where *Polyarchus* is ſaid to have directed, that, "if his ſon Cleonymus died "without iſſue, the eſtate ſhould go to his grand-"ſons:" now, if this direction had been contained in a will of the grandfather, Cleonymus could hardly have been empowered to deprive the perſons in remainder of their intereſt, ſince

the Athenians had not even an idea of eſtates-tail by implication, much leſs of recoveries by which thoſe entails might be barred; we muſt, therefore, ſuppoſe that this was only a *deſire* or *recommendation* of Polyarchus, which his ſon might legally, although not very decently, diſregard. Next, it may be remarked, that, in the real teſtament of *Philoctemon* and in the pretended one of *Hagnias*, we may diſcover the rudiments of thoſe *ſubſtitutions*, which form ſo large a part of our modern ſyſtems: Hagnias is ſuppoſed to have deviſed his property to his niece, and, after her death, to his half-brother *Glauco*, who, when ſhe died, entered upon the eſtate by virtue of the remainder, which had been veſted in him; but ſuch limitations were, I believe, uncommon among the Athenians, whoſe juriſprudence was not entangled with the ſubtile doctrine of contingent and veſted intereſts, or the multitude of perplexing queſtions, to which the capricious fancy of teſtators, with a little help from conveyancers, has conſtantly given birth in England; nor would the ancient courts have ſuffered juſtice to be impeded by the technical niceties which confined our countrymen, to whom deviſes, on their firſt introduction, appeared, they ſaid, of a *marvellous nature*; and a ſingle queſtion, in the cauſe of *Curius* and *Coponius*, which the Roman tribunal decided

juſtly in one day, was agitated in our courts for near forty years. I check myſelf on the proſpect of the vaſt field, into which this ſubject would lead me, remembering, that it is the ſole duty of a commentator to illuſtrate his author; and the ſpeeches of ISÆUS are made, I flatter myſelf, ſufficiently clear by the preceding obſervations; although, I confeſs, that ſome few clouds and dark places are left in them, which more leiſure than my late engagements have permitted me to enjoy, might perhaps have enabled me to diſperſe and elucidate. I am fully ſenſible, that deep reſearches into the legal antiquities of *Greece* and *Rome* are of greater uſe to ſcholars and contemplative perſons, than to lawyers and men of buſineſs; that Bracton and Littleton, Coke and Rolle, are the proper objects of our ſtudy; and that, if a client were to aſk his counſel whether he had an eſtate for life or in tail, he would receive little ſatisfaction from being told, that, whatever eſtate he had, he might deviſe it by the law of *Solon*, provided the deviſee took his daughter in marriage; but the ableſt advocates and wiſeſt judges have frequently embelliſhed their arguments with learned alluſions to ancient caſes; and ſuch alluſions, it muſt be allowed, are often uſeful, always ornamental; and, when they are introduced without pedantry, never fail to pleaſe. So delight-

ful, indeed, is the ſtudy of laws, general and particular, ancient and modern, Aſiatick and European, that even the fine arts are not more alluring; and it is with pleaſure, as well as firmneſs, that I adopt the reſolution of CICERO, which cannot be more forcibly or conciſely expreſſed than in the very words of his letter to *Varro:* "Mihi hæc videntur—ſi nemo utetur "operâ, tamen et ſcribere et legere πολιτείας, et ſi "minùs in curiâ atque in foro, at in literis et "libris, ut doctiſſimi veteres fecerunt, navare "rempublicam, et de moribus ac legibus quæ-"rere."

SACONTALÁ;

OR,

THE FATAL RING:

AN

INDIAN DRAMA.

By CÁLIDÁS.

TRANSLATED FROM THE

ORIGINAL SANSCRIT AND PRACRIT.

PREFACE.

IN one of the letters which bear the title of EDIFYING, though moſt of them ſwarm with ridiculous errours, and all muſt be conſulted with extreme diffidence, I met, ſome years ago, with the following paſſage: "In the north of India "there are many books, called Nátac, which, "as the Bráhmens aſſert, contain a large portion "of ancient hiſtory without any mixture of fa-"ble;" and having an eager deſire to know the real ſtate of this empire before the conqueſt of it by the Savages of the North, I was very ſolicitous, on my arrival in Bengal, to procure acceſs to thoſe books, either by the help of tranſlations, if they had been tranſlated, or by learning the language in which they were originally compoſed, and which I had yet a ſtronger inducement to learn from its connection with the adminiſtration of juſtice to the Hindûs; but when I was able to converſe with the Bráhmens, they aſſured me that the Nátacs were not hiſtories, and abounded with fables; that they were

extremely popular works, and conſiſted of converſations in proſe and verſe, held before ancient Rájás in their publick aſſemblies, on an infinite variety of ſubjects, and in various dialects of India: this definition gave me no very diſtinct idea; but I concluded that they were dialogues on moral or literary topicks; whilſt other Europeans, whom I conſulted, had underſtood from the natives that they were diſcourſes on dancing, muſick, or poetry. At length a very ſenſible Bráhmen, named Rádhácánt, who had long been attentive to Engliſh manners, removed all my doubts, and gave me no leſs delight than ſurpriſe, by telling me that our nation had compoſitions of the ſame ſort, which were publickly repreſented at Calcutta in the cold ſeaſon, and bore the name, as he had been informed, of plays. Reſolving at my leiſure to read the beſt of them, I aſked which of their Nátacs was moſt univerſally eſteemed; and he anſwered without heſitation, Sacontalá, ſupporting his opinion, as uſual among the Pandits, by a couplet to this effect: "The ring of Sacontalá, in which the "fourth act, and four ſtanzas of that act, are "eminently brilliant, diſplays all the rich exu-"berance of Cálidáſa's genius." I ſoon procured a correct copy of it; and, aſſiſted by my teacher Rámalóchan, began with tranſlating it verbally into Latin, which bears ſo great a reſemblance

to Sanſcrit, that it is more convenient than any modern language for a ſcrupulous interlineary verſion: I then turned it word for word into Engliſh, and afterwards, without adding or ſuppreſſing any material ſentence, diſengaged it from the ſtiffneſs of a foreign idiom, and prepared the faithful tranſlation of the Indian drama, which I now preſent to the publick as a moſt pleaſing and authentick picture of old Hindû manners, and one of the greateſt curioſities that the literature of Aſia has yet brought to light.

Dramatick poetry muſt have been immemorially ancient in the Indian empire: the invention of it is commonly aſcribed to Bheret, a ſage believed to have been inſpired, who invented alſo a ſyſtem of muſick which bears his name; but this opinion of its origin is rendered very doubtful by the univerſal belief, that the firſt Sanſcrit verſe ever heard by mortals was pronounced in a burſt of reſentment by the great Válmic, who flouriſhed in the ſilver age of the world, and was author of an Epick Poem on the war of his contemporary, Ráma, king of Ayódhyà; ſo that no drama in verſe could have been repreſented before his time; and the Indians have a wild ſtory, that the firſt regular play, on the ſame ſubject with the Rámáyan, was compoſed by Hanumat or Pávan, who commanded an army of Satyrs or Mountaineers in Ráma's expedition

againſt Lancà: they add, that he engraved it on a ſmooth rock, which, being diſſatisfied with his compoſition, he hurled into the ſea; and that, many years after, a learned prince ordered expert divers to take impreſſions of the poem on wax, by which means the drama was in great meaſure reſtored; and my Pandit aſſures me that he is in poſſeſſion of it. By whomſoever or in whatever age this ſpecies of entertainment was invented, it is very certain, that it was carried to great perfection in its kind, when Vicramáditya, who reigned in the firſt century before Chriſt, gave encouragement to poets, philologers, and mathematicians, at a time when the Britons were as unlettered and unpoliſhed as the army of Hanumat: nine men of genius, commonly called the nine gems, attended his court, and were ſplendidly ſupported by his bounty; and Cálidás is unanimouſly allowed to have been the brighteſt of them.—A modern epigram was lately repeated to me, which does ſo much honour to the author of Sacontalá, that I cannot forbear exhibiting a literal verſion of it: "Po-
"etry was the ſportful daughter of Válmic, and,
"having been educated by Vyáſa, ſhe choſe Cá-
"lidás for her bridegroom after the manner of
"Viderbha: ſhe was the mother of Amara, Sun-
"dar, Sanc'ha, Dhanic; but now, old and de-
"crepit, her beauty faded, and her unadorned

" feet ſlipping as ſhe walks, in whoſe cottage " does ſhe diſdain to take ſhelter?"

All the other works of our illuſtrious poet, the Shakeſpeare of India, that have yet come to my knowledge, are a ſecond play, in five acts, entitled Urvasí; an heroic poem, or rather a ſeries of poems in one book, on the Children of the Sun; another, with perfect unity of action, on the Birth of Cumára, god of war; two or three love tales in verſe; and an excellent little work on Sanſcrit Metre, preciſely in the manner of Terentianus; but he is believed by ſome to have reviſed the works of Válmic and Vyáſa, and to have corrected the perfect editions of them which are now current: this at leaſt is admitted by all, that he ſtands next in reputation to thoſe venerable bards; and we muſt regret, that he has left only two dramatick poems, eſpecially as the ſtories in his Raghuvanſa would have ſupplied him with a number of excellent ſubjects.—Some of his contemporaries, and other Hindû poets even to our own times, have compoſed ſo many tragedies, comedies, farces, and muſical pieces, that the Indian theatre would fill as many volumes as that of any nation in ancient or modern Europe: all the Pandits aſſert that their plays are innumerable; and, on my firſt inquiries concerning them, I had notice of more than thirty, which they conſider as the flower

of their Nátacs, among which the Malignant Child, the Rape of Uſhá, the Taming of Durváſas, the Seizure of the Lock, Málati and Mádhava, with five or ſix dramas on the adventures of their incarnate gods, are the moſt admired after thoſe of Cálidás. They are all in verſe, where the dialogue is elevated; and in proſe, where it is familiar: the men of rank and learning are repreſented ſpeaking pure Sanſcrit, and the women Prácrit, which is little more than the language of the Bráhmens melted down by a delicate articulation to the ſoftneſs of Italian; while the low perſons of the drama ſpeak the vulgar dialects of the ſeveral provinces which they are ſuppoſed to inhabit.

The play of Sacontalá muſt have been very popular when it was firſt repreſented; for the Indian empire was then in full vigour, and the national vanity muſt have been highly flattered by the magnificent introduction of thoſe kings and heroes in whom the Hindûs gloried; the ſcenery muſt have been ſplendid and beautiful; and there is good reaſon to believe, that the court at Avanti was equal in brilliancy during the reign of Vicramáditya, to that of any monarch in any age or country.—Duſhmanta, the hero of the piece, appears in the chronological tables of the Bráhmens among the Children of the Moon, and in the twenty-firſt generation

after the flood; ſo that, if we can at all rely on the chronology of the Hindûs, he was nearly contemporary with Obed, or Jeſſe; and Puru, his moſt celebrated anceſtor, was the fifth in deſcent from Budha, or Mercury, who married, they ſay, a daughter of the pious king, whom Viſhnu preſerved in an ark from the univerſal deluge: his eldeſt ſon Bheret was the illuſtrious progenitor of Curu, from whom Pándu was lineally deſcended, and in whoſe family the Indian Apollo became incarnate; whence the poem, next in fame to the Rámáyan, is called Mahábhárat.

As to the machinery of the drama, it is taken from the ſyſtem of mythology, which prevails to this day, and which it would require a large volume to explain; but we cannot help remarking, that the deities introduced in the Fatal Ring are clearly allegorical perſonages. Maríchi, the firſt production of Brahmá, or the Creative Power, ſignifies light, that ſubtil fluid which was created before its reſervoir, the ſun, as water was created before the ſea; Caſyapa, the offſpring of Maríchi, ſeems to be a perſonification of infinite ſpace, comprehending innumerable worlds; and his children by Aditi, or his active power (unleſs Aditi mean the primeval day, and Diti, his other wife, the night), are Indra, or the viſible

firmament, and the twelve Adityas, or ſuns, preſiding over as many months.

On the characters and conduct of the play I ſhall offer no criticiſm; becauſe I am convinced that the taſtes of men differ as much as their ſentiments and paſſions, and that, in feeling the beauties of art, as in ſmelling flowers, taſting fruits, viewing proſpects, and hearing melody, every individual muſt be guided by his own ſenſations and the incommunicable aſſociations of his own ideas. This only I may add, that if Sacontalá ſhould ever be acted in India, where alone it could be acted with perfect knowledge of Indian dreſſes, manners, and ſcenery, the piece might eaſily be reduced to five acts of a moderate length, by throwing the third act into the ſecond, and the ſixth into the fifth; for it muſt be confeſſed that the whole of Duſhmanta's converſation with his buffoon, and great part of his courtſhip in the hermitage, might be omitted without any injury to the drama.

It is my anxious wiſh that others may take the pains to learn Sanſcrit, and may be perſuaded to tranſlate the works of Cálidás: I ſhall hardly again employ my leiſure in a taſk ſo foreign to my profeſſional (which are, in truth, my favourite) ſtudies; and have no intention of tranſlating any other book from any language,

except the Law Tract of Menu, and the new Digeſt of Indian and Arabian laws; but, to ſhow, that the Bráhmens, at leaſt, do not think polite literature incompatible with juriſprudence, I cannot avoid mentioning, that the venerable compiler of the Hindû Digeſt, who is now in his eighty-ſixth year, has the whole play of Sacontalá by heart; as he proved when I laſt converſed with him, to my entire conviction. Leſt, however, I ſhould hereafter ſeem to have changed a reſolution which I mean to keep inviolate, I think it proper to ſay, that I have already tranſlated four or five other books, and among them the Hitópadéſa, which I undertook, merely as an exerciſe in learning Sanſcrit, three years before I knew that Mr. Wilkins, without whoſe aid I ſhould never have learnt it, had any thought of giving the ſame work to the publick.

PERSONS OF THE DRAMA.

Dushmanta, Emperor of India.
Sacontalá, the Heroine of the Piece.
Anusúyá, *Priyamvadá*, } Damsels attendant on her.
Mádhavya, the Emperor's Buffoon.
Gautamí, an old female Hermit.
Sárngarava, *Sáradwata*, } two Bráhmens.
Canna, Foster-father of Sacontalá.
Cumbhílaca, a Fisherman.
Misracésí, a Nymph.
Mátali, Charioteer of Indra.
A little Boy.
Casyapa, *Aditi*, } Deities, Parents of Indra.

Officers of State and Police, Bráhmens, Damsels, Hermits, Pupils, Chamberlas, Warders of the Palace, Messengers, and Attendants.

THE PROLOGUE.

A Bráhmen *pronounces the benediction.*

WATER was the firſt work of the Creator; and Fire receives the oblations ordained by law; the Sacrifice is performed with ſolemnity; the Two Lights of heaven diſtinguiſh time; the ſubtil Ether, which is the vehicle of ſound, pervades the univerſe; the Earth is the natural parent of all increaſe; and by Air all things breathing are animated: may I'SA, the God of Nature, apparent in theſe eight forms, bleſs and ſuſtain you!

The Manager *enters.*

Man. What occaſion is there for a long ſpeech?—[*Looking towards the dreſſing-room*]—When your decorations, Madam, are completed, be pleaſed to come forward.

An Actreſs *enters.*

Actr. I attend, Sir.—What are your commands?

Man. This, Madam, is the numerous and polite aſſembly of the famed Hero, our king Vicramáditya, the patron of every delightful art; and before this audience we muſt do juſtice to a new production of Cálidás, a dramatick piece, entitled Sacontalá, or, The Fatal Ring: it is requeſted, therefore, that all will be attentive.

Actr. Who, Sir, could be inattentive to an entertainment ſo well intended?

Man. [*Smiling*] I will ſpeak, Madam, without reſerve.—As far as an enlightened audience receive pleaſure from our theatrical talents, and expreſs it, ſo far, and no farther, I ſet a value on them; but my own mind is diffident of its powers, how ſtrongly ſoever exerted.

Actr. You judge rightly in meaſuring your own merit by the degree of pleaſure which this aſſembly may receive; but its value, I truſt, will preſently appear.—Have you any farther commands?

Man. What better can you do, ſince you are now on the ſtage, than exhilarate the ſouls, and gratify the ſenſe, of our auditory with a ſong?

Actr. Shall I ſing the deſcription of a ſeaſon? and which of the ſeaſons do you chuſe to hear deſcribed?

Man. No finer ſeaſon could be ſelected than the ſummer, which is actually begun, and abounds with delights. How ſweet is the cloſe

of a ſummer day, which invites our youth to bathe in pure ſtreams, and induces gentle ſlumber under the ſhades refreſhed by ſylvan breezes, which have paſſed over the blooming Pátalis and ſtolen their fragrance!

Actr. [*Singing.*] "Mark how the ſoft bloſ-"ſoms of the Nágacéſar are lightly kiſſed by the "bees! Mark how the damſels delicately place "behind their ears the flowers of Siríſha!"

Man. A charming ſtrain! the whole company ſparkles, as it were, with admiration; and the muſical mode to which the words are adapted, has filled their ſouls with rapture. By what other performance can we enſure a continuance of their favour?

Actr. Oh! by none better than by the Fatal Ring, which you have juſt announced.

Man. How could I forget it! In that moment I was lulled to diſtraction by the melody of thy voice, which allured my heart, as the king Duſhmanta is now allured by the ſwift antelope. [*They both go out.*

SACONTALÁ;

OR,

THE FATAL RING.

ACT I.

SCENE—A FOREST.

Duſhmanta, *in a car, purſuing an antelope, with a bow and quiver, attended by his* Charioteer.

Char. [*Looking at the antelope, and then at the king.*]

WHEN I caſt my eye on that black antelope, and on thee, O king, with thy braced bow, I ſee before me, as it were, the God Mahéſa chaſing a hart, with his bow, named pináca, braced in his left hand.

Duſhm. The fleet animal has given us a long chaſe. Oh! there he runs, with his neck bent gracefully, looking back, from time to time, at the car which follows him. Now, through fear of a deſcending ſhaft, he contracts his forehand, and extends his flexible haunches; and now,

through fatigue, he pauſes to nibble the graſs in his path with his mouth half opened. See how he ſprings and bounds with long ſteps, lightly ſkimming the ground, and riſing high in the air! And now ſo rapid is his flight, that he is ſcarce diſcernible!

Char. The ground was uneven, and the horſes were checked in their courſe. He has taken advantage of our delay. It is level now, and we may eaſily overtake him.

Duſhm. Looſen the reins.

Char. As the king commands.—[*He drives the car firſt at full ſpeed, and then gently.*]—He could not eſcape. The horſes were not even touched by the clouds of duſt which they raiſed; they toſſed their manes, erected their ears, and rather glided than galloped over the ſmooth plain.

Duſhm. They ſoon outran the ſwift antelope.—Objects which, from their diſtance, appeared minute, preſently became larger: what was really divided, ſeemed united, as we paſſed; and what was in truth bent, ſeemed ſtraight. So ſwift was the motion of the wheels, that nothing, for many moments, was either diſtant or near. [*He fixes an arrow in his bowſtring.*

[*Behind the ſcenes.*] He muſt not be ſlain. This antelope, O king, has an aſylum in our foreſt: he muſt not be ſlain.

Char. [*Liſtening and Looking.*] Juſt as the animal preſents a fair mark for your arrow, two hermits are advancing to interrupt your aim.

Duſhm. Then ſtop the car.

Char. The king is obeyed.

[*He draws in the reins.*

Enter a Hermit *and his* Pupil.

Herm. [*Raiſing his hands.*] Slay not, O mighty ſovereign, ſlay not a poor fawn, who has found a place of refuge. No, ſurely, no; he muſt not be hurt. An arrow in the delicate body of a deer would be like fire in a bale of cotton. Compared with thy keen ſhafts, how weak muſt be the tender hide of a young antelope! Replace quickly, oh! replace the arrow which thou haſt aimed. The weapons of you kings and warriors are deſtined for the relief of the oppreſſed, not for the deſtruction of the guiltleſs.

Duſhm. [*Saluting them.*] It is replaced.

[*He places the arrow in his quiver.*

Herm. [*With joy.*] Worthy is that act of thee, moſt illuſtrious of monarchs; worthy, indeed, of a prince deſcended from Puru. Mayſt thou have a ſon adorned with virtues, a ſovereign of the world!

Pup. [*Elevating both his hands.*] Oh! by all means, may thy ſon be adorned with every virtue, a ſovereign of the world!

Duſhm. [*Bowing to them.*] My head bears with reverence the order of a Bráhmen.

Herm. Great king, we came hither to collect wood for a ſolemn ſacrifice; and this foreſt, on the banks of the Malinì, affords an aſylum to the wild animals protected by Sacontalá, whom our holy preceptor Canna has received as a ſacred depoſit. If you have no other avocation, enter yon grove, and let the rights of hoſpitality be duly performed. Having ſeen with your own eyes the virtuous behaviour of thoſe whoſe only wealth is their piety, but whoſe worldly cares are now at an end, you will then exclaim, "How many good ſubjects are defended by this "arm, which the bowſtring has made callous!"

Duſhm. Is the maſter of your family at home?

Herm. Our preceptor is gone to Sómatírt'ha, in hopes of deprecating ſome calamity, with which deſtiny threatens the irreproachable Sacontalá; and he has charged her, in his abſence, to receive all gueſts with due honour.

Duſhm. Holy man, I will attend her; and ſhe, having obſerved my devotion, will report it favourably to the venerable ſage.

Both. Be it ſo; and we depart on our own buſineſs. [*The* Hermit *and his* Pupil *go out.*

Duſhm. Drive on the car. By viſiting the abode of holineſs, we ſhall purify our ſouls.

Char. As the king (may his life be long!) commands. [*He drives on.*

Duſhm. [*Looking on all ſides.*] That we are near the dwelling-place of pious hermits, would clearly have appeared, even if it had not been told.

Char. By what marks?

Duſhm. Do you not obſerve them? See under yon trees the hallowed grains which have been ſcattered on the ground, while the tender female parrots were feeding their unfledged young in their pendent neſts. Mark in other places the ſhining pieces of poliſhed ſtone which have bruiſed the oily fruit of the ſacred Ingudì. Look at the young fawns, which, having acquired confidence in man, and accuſtomed themſelves to the ſound of his voice, friſk at pleaſure, without varying their courſe. Even the ſurface of the river is reddened with lines of conſecrated bark, which float down its ſtream. Look again; the roots of yon trees are bathed in the waters of holy pools, which quiver as the breeze plays upon them; and the glowing luſtre of yon freſh leaves is obſcured, for a time, by ſmoke that riſes from oblations of clarified butter. See too, where the young roes graze, without apprehenſion from our approach, on the lawn before yonder garden, where the tops of the ſacrificial

graſs, cut for ſome religious rite, are ſprinkled around.

Char. I now obſerve all thoſe marks of ſome holy habitation.

Duſhm. [*Turning aſide.*] This awful ſanctuary, my friend, muſt not be violated. Here, therefore, ſtop the car; that I may deſcend.

Char. I hold in the reins. The king may deſcend at his pleaſure.

Duſhm. [*Having deſcended, and looking at his own dreſs.*] Groves devoted to religion muſt be entered in humbler habiliments. Take theſe regal ornaments;—[*the* Charioteer *receives them*] —and, whilſt I am obſerving thoſe who inhabit this retreat, let the horſes be watered and dreſſed.

Char. Be it as you direct! [*He goes out.*

Duſhm. [*Walking round and looking.*] Now then I enter the ſanctuary.—[*He enters the grove.*]—Oh! this place muſt be holy, my right arm throbs.—[*Pauſing and conſidering.*]—What new acquiſition does this omen promiſe in a ſequeſtered grove? But the gates of predeſtined events are in all places open.

[*Behind the ſcenes.*] Come hither, my beloved companions; Oh! come hither.

Duſhm. [*Liſtening.*] Hah! I hear female voices to the right of yon arbour. I am reſolved to know who are converſing.—[*He walks round*

and looks.]—There are ſome damſels, I ſee, belonging to the hermit's family who carry water-pots of different ſizes proportioned to their ſtrength, and are going to water the delicate plants. Oh! how charmingly they look! If the beauty of maids who dwell in woodland retreats cannot eaſily be found in the receſſes of a palace, the garden flowers muſt make room for the bloſſoms of the foreſt, which excel them in colour and fragrance. [*He ſtands gazing at them.*

Enter Sacontalá, Anuſúyá, *and* Priyamvadá.

Anu. O my Sacontalá, it is in thy ſociety that the trees of our father Canna ſeem to me delightful; it well becomes thee, who art ſoft as the freſh-blown Mallicà, to fill with water the canals which have been dug round theſe tender ſhrubs.

Sac. It is not only in obedience to our father that I thus employ myſelf, though that were a ſufficient motive, but I really feel the affection of a ſiſter for theſe young plants.

[*Watering them.*

Pri. My beloved friend, the ſhrubs which you have watered flower in the ſummer, which is now begun: let us give water to thoſe which have paſſed their flowering time; for our virtue will be the greater when it is wholly diſintereſted.

Sac. Excellent advice! [*Watering other plants.*

Duſhm. [*Aſide in tranſport.*] How! is that Canna's daughter, Sacontalá?—[*With ſurpriſe.*] —The venerable ſage muſt have an unfeeling heart, ſince he has allotted a mean employment to ſo lovely a girl, and has dreſſed her in a coarſe mantle of woven bark. He, who could wiſh that ſo beautiful a creature, who at firſt ſight raviſhes my ſoul, ſhould endure the hardſhips of his auſtere devotion, would attempt, I ſuppoſe, to cleave the hard wood Samì with a leaf of the blue lotos. Let me retire behind this tree, that I may gaze on her charms without diminiſhing her confidence. [*He retires.*

Sac. My friend Priyamvadá has tied this mantle of bark ſo cloſely over my boſom that it gives me pain: Anuſúyá, I requeſt you to untie it.

[Anuſúyá *unties the mantle.*

Pri. [*Laughing.*] Well, my ſweet friend, enjoy, while you may, that youthful prime, which gives your boſom ſo beautiful a ſwell.

Duſhm. [*Aſide.*] Admirably ſpoken, Priyamvadá! No; her charms cannot be hidden, even though a robe of intertwiſted fibres be thrown over her ſhoulders, and conceal a part of her boſom, like a veil of yellow leaves enfolding a radiant flower. The water lily, though dark moſs may ſettle on its head, is nevertheleſs beautiful; and the moon with dewy beams is rendered yet brighter by its black ſpots. The bark itſelf ac-

quires elegance from the features of a girl with antelope's eyes, and rather augments than diminiſhes my ardour. Many are the rough ſtalks which ſupport the water lily; but many and exquiſite are the bloſſoms which hang on them.

Sac. [*Looking before her.*] Yon Amra tree, my friends, points with the finger of its leaves, which the gale gently agitates, and ſeems inclined to whiſper ſome ſecret. I will go near it.

[*They all approach the tree.*

Pri. O my Sacontalá, let us remain ſome time in this ſhade.

Sac. Why here particularly?

Pri. Becauſe the Amra tree ſeems wedded to you, who are graceful as the blooming creeper which twines round it.

Sac. Properly are you named Priyamvadá, or ſpeaking kindly.

Duſhm. [*Aſide.*] She ſpeaks truly. Yes; her lip glows like the tender leaflet; her arms reſemble two flexible ſtalks; and youthful beauty ſhines, like a bloſſom, in all her lineaments.

Anu. See, my Sacontalá, how yon freſh Mallicà, which you have ſurnamed Vanàdóſinì, or Delight of the Grove, has choſen the ſweet Amra for her bridegroom.

Sac. [*Approaching, and looking at it with pleaſure.*] How charming is the ſeaſon, when the

nuptials even of plants are thus publickly celebrated! [*She ſtands admiring it.*

Pri. [*Smiling.*] Do you know, my Anuſúyá, why Sacontalá gazes on the plants with ſuch rapture?

Anu. No, indeed: I was trying to gueſs. Pray, tell me.

Pri. "As the Grove's Delight is united to a "ſuitable tree, thus I too hope for a bridegroom "to my mind."—That is her private thought at this moment.

Sac. Such are the flights of your own imagination. [*Inverting the water-pot.*

Anu. Here is a plant, Sacontalá, which you have forgotten, though it has grown up, like yourſelf, under the foſtering care of our father Canna.

Sac. Then I ſhall forget myſelf.—O wonderful!—[*approaching the plant.*]—O Priyamvadá! [*looking at it with joy*] I have delightful tidings for you.

Pri. What tidings, my beloved, for me?

Sac. This Mádhavi-creeper, though it be not the uſual time for flowering, is covered with gay bloſſoms from its root to its top.

Both. [*Approaching it haſtily.*] Is it really ſo, ſweet friend?

Sac. Is it ſo? look yourſelves.

Pri. [*With eagerneſs.*] From this omen, Sa-

contalá, I announce you an excellent huſband, who will very ſoon take you by the hand.

[*Both girls look at* Sacontalá.

Sac. [*Diſpleaſed.*] A ſtrange fancy of yours!

Pri. Indeed, my beloved, I ſpeak not jeſtingly. I heard ſomething from our father Canna. Your nurture of theſe plants has proſpered; and thence it is, that I foretel your approaching nuptials.

Anu. It is thence, my Priyamvadá, that ſhe has watered them with ſo much alacrity.

Sac. The Mádhavi plant is my ſiſter; can I do otherwiſe than cheriſh her?

[*Pouring water on it.*

Duſhm. [*Aſide.*] I fear ſhe is of the ſame religious order with her foſter-father. Or has a miſtaken apprehenſion riſen in my mind? My warm heart is ſo attached to her, that ſhe cannot but be a fit match for a man of the military claſs. The doubts which awhile perplex the good, are ſoon removed by the prevalence of their ſtrong inclinations. I am enamoured of her, and ſhe cannot, therefore, be the daughter of a Bráhmen, whom I could not marry.

Sac. [*Moving her head.*] Alas! a bee has left the bloſſom of this Mallicá, and is fluttering round my face. [*She expreſſes uneaſineſs.*

Duſhm. [*Aſide, with affection.*] How often have I ſeen our court damſels affectedly turn

their heads aſide from ſome roving inſect, merely to diſplay their graces! but this rural charmer knits her brows, and gracefully moves her eyes through fear only, without art or affectation. Oh! happy bee, who toucheſt the corner of that eye beautifully trembling; who, approaching the tip of that ear, murmureſt as ſoftly as if thou wert whiſpering a ſecret of love; and who ſippeſt nectar, while ſhe waves her graceful hand, from that lip, which contains all the treaſures of delight! Whilſt I am ſolicitous to know in what family ſhe was born, thou art enjoying bliſs, which to me would be ſupreme felicity.

Sac. Diſengage me, I entreat, from this importunate inſect, which quite baffles my efforts.

Pri. What power have we to deliver you? The king Duſhmanta is the ſole defender of our conſecrated groves.

Duſhm. [*Aſide.*] This is a good occaſion for me to diſcover myſelf—[*advancing a little.*]—I muſt not, I will not, fear. Yet—[*checking himſelf and retiring*]—my royal character will thus abruptly be known to them. No; I will appear as a ſimple ſtranger, and claim the duties of hoſpitality.

Sac. This impudent bee will not reſt. I will remove to another place.—[*Stepping aſide and looking round.*]—Away! away! He follows me

wherever I go. Deliver me, oh! deliver me from this diſtreſs.

Duſhm. [*Advancing haſtily.*] Ah! While the race of Puru govern the world, and reſtrain even the moſt profligate, by good laws well adminiſtered, has any man the audacity to moleſt the lovely daughters of pious hermits?

[*They look at him with emotion.*

Anu. Sir, no man is here audacious; but this damſel, our beloved friend, was teaſed by a fluttering bee. [*Both girls look at* Sacontalá.

Duſhm. [*Approaching her.*] Damſel, may thy devotion proſper!

[Sacontalá *looks on the ground, baſhful and ſilent.*

Anu. Our gueſt muſt be received with due honours.

Pri. Stranger, you are welcome. Go, my Sacontalá; bring from the cottage a baſket of fruit and flowers. This river will, in the mean time, ſupply water for his feet.

[*Looking at the water-pots.*

Duſhm. Holy maid, the gentleneſs of thy ſpeech does me ſufficient honour.

Anu. Sit down awhile on this bank of earth, ſpread with the leaves of Septaperna: the ſhade is refreſhing, and our lord muſt want repoſe after his journey.

Duſhm. You too muſt all be fatigued by your

hoſpitable attentions; reſt yourſelves, therefore, with me.

Pri. [*Aſide to* Sacontalá.] Come, let us all be ſeated: our gueſt is contented with our reception of him. [*They all ſeat themſelves.*

Sac. [*Aſide.*] At the ſight of this youth I feel an emotion ſcarce conſiſtent with a grove devoted to piety.

Duſhm. [*Gazing at them alternately.*] How well your friendſhip agrees, holy damſels, with the charming equality of your ages, and of your beauties!

Pri. [*Aſide to* Anuſúyá.] Who can this be, my Anuſúyá? The union of delicacy with robuſtneſs in his form, and of ſweetneſs with dignity in his diſcourſe, indicate a character fit for ample dominion.

Anu. [*Aſide to* Priyamvadá.] I too have been admiring him. I muſt aſk him a few queſtions. —[*Aloud.*] Your ſweet ſpeech, Sir, gives me confidence. What imperial family is embelliſhed by our noble gueſt? What is his native country? Surely it muſt be afflicted by his abſence from it. What, I pray, could induce you to humiliate that exalted form of yours by viſiting a foreſt peopled only by ſimple anchorites?

Sac. [*Aſide.*] Perplex not thyſelf, O my heart! let the faithful Anuſúyá direct with her counſel the thoughts which riſe in thee.

Duſhm. [*Aſide.*] How ſhall I reveal, or how ſhall I diſguiſe myſelf?—[*Muſing.*]—Be it ſo.—[*Aloud to* Anuſúyá.] Excellent lady, I am a ſtudent of the Véda, dwelling in the city of our king, deſcended from Puru; and, being occupied in the diſcharge of religious and moral duties, am come hither to behold the ſanctuary of virtue.

Anu. Holy men, employed like you, are our lords and maſters.

[Sacontalá *looks modeſt, yet with affection; while her companions gaze alternately at her and at the king.*

Anu. [*Aſide to* Sacontalá.] Oh! if our venerable father were preſent—

Sac. What if he were?

Anu. He would entertain our gueſt with a variety of refreſhments.

Sac. [*Pretending diſpleaſure.*] Go too; you had ſome other idea in your head; I will not liſten to you. [*She ſits apart.*

Duſhm. [*Aſide to* Anuſúyá *and* Priyamvadá.] In my turn, holy damſels, allow me to aſk one queſtion concerning your lovely friend.

Both. The requeſt, Sir, does us honour.

Duſhm. The ſage Canna, I know, is ever intent upon the great Being; and muſt have declined all earthly connections. How then can this damſel be, as it is ſaid, his daughter?

Anu. Let our lord hear. There is, in the family of Cuſa, a pious prince of extenſive power, eminent in devotion and in arms.

Duſhm. You ſpeak, no doubt, of Cauſica, the ſage and monarch.

Anu. Know, Sir, that he is in truth her father; while Canna bears that reverend name, becauſe he brought her up, ſince ſhe was left an infant.

Duſhm. Left? the word excites my curioſity; and raiſes in me a deſire of knowing her whole ſtory.

Anu. You ſhall hear it, Sir, in few words.—When that ſage king had begun to gather the fruits of his auſtere devotion, the gods of Swerga became apprehenſive of his increaſing power, and ſent the nymph Ménacà to fruſtrate, by her allurements, the full effect of his piety.

Duſhm. Is a mortal's piety ſo tremendous to the inferior deities? What was the event?

Anu. In the bloom of the vernal ſeaſon, Cauſica, beholding the beauty of the celeſtial nymph, and wafted by the gale of deſire——

[*She ſtops and looks modeſt.*

Duſhm. I now ſee the whole. Sacontalá then is the daughter of a king, by a nymph of the lower heaven.

Anu. Even ſo.

Duſhm. [*Aſide.*] The deſire of my heart is gratified.—[*Aloud.*] How, indeed, could her

tranſcendent beauty be the portion of mortal birth? Yon light, that ſparkles with tremulous beams, proceeds not from a terreſtrial cavern.

[Sacontalá *ſits modeſtly, with her eyes on the ground.*

Duſhm. [*Again aſide.*] Happy man that I am! Now has my fancy an ample range. Yet, having heard the pleaſantry of her companions on the ſubject of her nuptials, I am divided with anxious doubt, whether ſhe be not wholly deſtined for a religious life.

Pri. [*Smiling, and looking firſt at* Sacontalá, *then at the king.*] Our lord ſeems deſirous of aſking other queſtions.

[Sacontalá *rebukes* Priyamvadá *with her hand.*

Duſhm. You know my very heart. I am, indeed, eager to learn the whole of this charmer's life; and muſt put one queſtion more.

Pri. Why ſhould you muſe on it ſo long?— [*Aſide.*] One would think this religious man was forbidden by his vows to court a pretty woman.

Duſhm. This I aſk. Is the ſtrict rule of a hermit ſo far to be obſerved by Canna, that he cannot diſpoſe of his daughter in marriage, but muſt check the natural impulſe of juvenile love? Can ſhe (oh prepoſterous fate!) be deſtined to reſide for life among her favourite antelopes, the black luſtre of whoſe eyes is far ſurpaſſed by hers?

Pri. Hitherto, Sir, our friend has lived happy in this conſecrated foreſt, the abode of her ſpiritual father; but it is now his intention to unite her with a bridegroom equal to herſelf.

Duſhm. [*Aſide, with ecſtacy.*] Exult, oh my heart, exult. All doubt is removed; and what before thou wouldſt have dreaded as a flame, may now be approached as a gem ineſtimable.

Sac. [*Seeming angry.*] Anuſúyá, I will ſtay here no longer.

Anu. Why ſo, I pray?

Sac. I will go to the holy matron Gautamí, and let her know how impertinently our Priyamvadá has been prattling. [*She riſes.*

Anu. It will not be decent, my love, for an inhabitant of this hallowed wood to retire before a gueſt has received complete honour.

[Sacontalá, *giving no anſwer, offers to go.*

Duſhm. [*Aſide.*] Is ſhe then departing?—[*He riſes, as if going to ſtop her, but checks himſelf.*]—The actions of a paſſionate lover are as precipitate as his mind is agitated. Thus I, whoſe paſſion impelled me to follow the hermit's daughter, am reſtrained by a ſenſe of duty.

Pri. [*Going up to* Sacontalá.] My angry friend, you muſt not retire.

Sac. [*Stepping back and frowning.*] What ſhould detain me?

Pri. You owe me the labour, according to

our agreement, of watering two more ſhrubs. Pay me firſt, to acquit your conſcience, and then depart, if you pleaſe. [*Holding her.*

Duſhm. The damſel is fatigued, I imagine, by pouring ſo much water on the cheriſhed plants. Her arms, graced with palms like freſh bloſſoms, hang careleſsly down; her boſom heaves with ſtrong breathing; and now her diſhevelled locks, from which the ſtring has dropped, are held by one of her lovely hands. Suffer me, therefore, thus to diſcharge the debt. —[*Giving his ring to* Priyamvadá. *Both damſels, reading the name* Duſhmanta, *inſcribed on the ring, look with ſurpriſe at each other.*]—It is a toy unworthy of your fixed attention; but I value it as a gift from the king.

Pri. Then you ought not, Sir, to part with it. Her debt is from this moment diſcharged on your word only. [*She returns the ring.*

Anu. You are now releaſed, Sacontalá, by this benevolent lord—or favoured, perhaps, by a monarch himſelf. To what place will you now retire?

Sac. [*Aſide.*] Muſt I not wonder at all this if I preſerve my ſenſes?

Pri. Are not you going, Sacontalá?

Sac. Am I your ſubject? I ſhall go when it pleaſes me.

Duſhm. [*Aſide, looking at* Sacontalá.] Either

ſhe is affected towards me, as I am towards her, or I am diſtracted with joy. She mingles not her diſcourſe with mine; yet, when I ſpeak, ſhe liſtens attentively. She commands not her actions in my preſence; and her eyes are engaged on me alone.

Behind the ſcenes.] Oh pious hermits, preſerve the animals of this hallowed foreſt! The king Duſhmanta is hunting in it. The duſt raiſed by the hoofs of his horſes, which pound the pebbles ruddy as early dawn, falls like a ſwarm of blighting inſects on the conſecrated boughs which ſuſtain your mantles of woven bark, moiſt with the water of the ſtream in which you have bathed.

Duſhm. [*Aſide.*] Alas! my officers, who are ſearching for me, have indiſcreetly diſturbed this holy retreat.

Again behind the ſcenes.] Beware, ye hermits, of yon elephant, who comes overturning all that oppoſe him; now he fixes his trunk with violence on a lofty branch that obſtructs his way; and now he is entangled in the twining ſtalks of the Vratati. How are our ſacred rites interrupted! How are the protected herds diſperſed! The wild elephant, alarmed at the new appearance of a car, lays our foreſt waſte.

Duſhm. [*Aſide.*] How unwillingly am I offending the devout foreſters! Yes; I muſt go to them inſtantly.

Pri. Noble ſtranger, we are confounded with dread of the enraged elephant. With your permiſſion, therefore, we retire to the hermit's cottage.

Anu. O Sacontalá, the venerable matron will be much diſtreſſed on your account. Come quickly, that we may be all ſafe together.

Sac. [*Walking ſlowly.*] I am ſtopped, alas! by a ſudden pain in my ſide.

Duſhm. Be not alarmed, amiable damſels. It ſhall be my care that no diſturbance happen in your ſacred groves.

Pri. Excellent ſtranger, we were wholly unacquainted with your ſtation; and you will forgive us, we hope, for the offence of intermitting awhile the honours due to you: but we humbly requeſt that you will give us once more the pleaſure of ſeeing you, though you have not now been received with perfect hoſpitality.

Duſhm. You depreciate your own merits. The ſight of you, ſweet damſels, has ſufficiently honoured me.

Sac. My foot, O Anuſúyá, is hurt by this pointed blade of Cuſa graſs; and now my looſe veſt of bark is caught by a branch of the Curuvaca. Help me to diſentangle myſelf, and ſupport me. [*She goes out, looking from time to time at* Duſhmanta, *and ſupported by the damſels.*]

Duſhm. [*Sighing.*] They are all departed; and I too, alas! muſt depart. For how ſhort a

moment have I been bleſſed with a ſight of the incomparable Sacontalá! I will ſend my attendants to the city, and take my ſtation at no great diſtance from this foreſt. I cannot, in truth, divert my mind from the ſweet occupation of gazing on her. How, indeed, ſhould I otherwiſe occupy it? My body moves onward; but my reſtleſs heart runs back to her; like a light flag borne on a ſtaff againſt the wind, and fluttering in an oppoſite direction. [*He goes out.*

ACT II.

SCENE—*A* PLAIN, *with royal pavilions on the ſkirt of the foreſt.*

Mádhavya. [*Sighing and lamenting.*]

STRANGE recreation this!—Ah me! I am wearied to death.—My royal friend has an unaccountable taſte.—What can I think of a king ſo paſſionately fond of chaſing unprofitable quadrupeds?—"Here runs an antelope! there goes "a boar!"—Such is our only converſation.—Even at noon, in exceſſive heat, when not a tree in the foreſt has a ſhadow under it, we muſt be ſkipping and prancing about, like the beaſts whom we follow.—Are we thirſty? We have nothing to drink but the waters of mountain torrents, which taſte of burned ſtones and mawkiſh leaves.—Are we hungry? We muſt greedily devour lean veniſon, and that commonly roaſted to a ſtick.—Have I a moment's repoſe at night? —My ſlumber is diſturbed by the din of horſes and elephants, or by the ſons of ſlave-girls hollooing out, "More veniſon, more veniſon!"—Then comes a cry that pierces my ear, "Away "to the foreſt, away!"—Nor are theſe my only grievances: freſh pain is now added to the ſmart

of my firſt wounds; for, while we were ſeparated from our king, who was chaſing a fooliſh deer, he entered, I find, yon lonely place, and there, to my infinite grief, ſaw a certain girl, called Sacontalá, the daughter of a hermit: from that moment not a word of returning to the city!—Theſe diſtreſſing thoughts have kept my eyes open the whole night.—Alas! when ſhall we return?—I cannot ſet eyes on my beloved friend Duſhmanta ſince he ſet his heart on taking another wife.—[*Stepping aſide and looking*]—Oh! there he is.—How changed!—He carries a bow, indeed, but wears for his diadem a garland of wood-flowers.—He is advancing: I muſt begin my operations.—[*He ſtands leaning on a ſtaff.*]—Let me thus take a moment's reſt.—[*Aloud.*]

Duſhmanta *enters, as deſcribed.*

Duſhm. [*Aſide, ſighing.*] My darling is not ſo eaſily attainable; yet my heart aſſumes confidence from the manner in which ſhe ſeemed affected: ſurely, though our love has not hitherto proſpered, yet the inclinations of us both are fixed on our union.—[*Smiling.*]—Thus do lovers agreeably beguile themſelves, when all the powers of their ſouls are intent on the objects of their deſire!—But am I beguiled? No; when ſhe caſt her eyes even on her companions, they ſparkled with tenderneſs; when ſhe moved her graceful

arms, they dropped, as if languid with love; when her friend remonſtrated againſt her departure, ſhe ſpoke angrily—All this was, no doubt, on my account.—Oh! how quick-ſighted is love in diſcerning his own advantages!

Mádh. [*Bending downward, as before.*] Great prince! my hands are unable to move; and it is with my lips only that I can mutter a bleſſing on you. May the king be victorious!

Duſhm. [*Looking at him and ſmiling.*] Ah! what has crippled thee, friend Mádhavya?

Mádh. You ſtrike my eye with your own hand, and then aſk what makes it weep.

Duſhm. Speak intelligibly. I know not what you mean.

Mádh. Look at yon Vétas tree bent double in the river. Is it crooked, I pray, by its own act, or by the force of the ſtream?

Duſhm. It is bent, I ſuppoſe, by the current.

Mádh. So am I by your Majeſty.

Duſhm. How ſo, Mádhavya?

Mádh. Does it become you, I pray, to leave the great affairs of your empire, and ſo charming a manſion as your palace, for the ſake of living here like a foreſter? Can you hold a council in a wood? I, who am a reverend Bráhmen, have no longer the uſe of my hands and feet: they are put out of joint by my running all day long after dogs and wild beaſts. Favour me, I

entreat, with your permiſſion to repoſe but a ſingle day.

Duſhm. [*Aſide.*] Such are this poor fellow's complaints; whilſt I, when I think of Canna's daughter, have as little reliſh for hunting as he: How can I brace this bow, and fix a ſhaft in the ſtring, to ſhoot at thoſe beautiful deer who dwell in the ſame groves with my beloved, and whoſe eyes derive luſtre from hers?

Mádh. [*Looking ſtedfaſtly at the king.*] What ſcheme is your royal mind contriving? I have been crying, I find, in a wilderneſs.

Duſhm. I think of nothing but the gratification of my old friend's wiſhes.

Mádh. [*Joyfully.*] Then may the king live long! [*Riſing, but counterfeiting feebleneſs.*

Duſhm. Stay; and liſten to me attentively.

Mádh. Let the king command.

Duſhm. When you have taken repoſe, I ſhall want your aſſiſtance in another buſineſs, that will give you no fatigue.

Mádh. Oh! what can that be, unleſs it be eating rice-pudding?

Duſhm. You ſhall know in due time.

Mádh. I ſhall be delighted to hear it.

Duſhm. Hola! who is there?

The Chamberlain *enters.*

Cham. Let my ſovereign command me.

Duſhm. Raivataca, bid the General attend.

Cham. I obey.—[*He goes out, and returns with the* General.]—Come quickly, Sir, the king ſtands expecting you.

Gen. [*Aſide, looking at* Duſhmanta.] How comes it that hunting, which moraliſts reckon a vice, ſhould be a virtue in the eyes of a king? Thence it is, no doubt, that our emperor, occupied in perpetual toil, and inured to conſtant heat, is become ſo lean, that the ſunbeams hardly affect him; while he is ſo tall, that he looks to us little men, like an elephant grazing on a mountain: he ſeems all ſoul.—[*Aloud, approaching the king.*]—May our monarch ever be victorious!—This foreſt, O king, is infeſted by beaſts of prey: we ſee the traces of their huge feet in every path.—What orders is it your pleaſure to give?

Duſhm. Bhadraſéna, this moralizing Mádhavya has put a ſtop to our recreation by forbidding the pleaſures of the chaſe.

Gen. [*Aſide to* Mádhavya.] Be firm to your word, my friend; whilſt I ſound the king's real inclinations.—[*Aloud.*] O! Sir, the fool talks idly. Conſider the delights of hunting. The body, it is true, becomes emaciated, but it is light and fit for exerciſe. Mark how the wild beaſts of various kinds are variouſly affected by fear and by rage! What pleaſure equals that of a

proud archer, when his arrow hits the mark as it flies?—Can hunting be juſtly called a vice? No recreation, ſurely, can be compared with it.

Mádh. [*Angrily.*] Away, thou falſe flatterer! The king, indeed, follows his natural bent, and is excuſable; but thou, ſon of a ſlave girl, haſt no excuſe.—Away to the wood!—How I wiſh thou hadſt been ſeized by a tiger or an old bear, who was prowling for a ſkakàl, like thyſelf!

Duſhm. We are now, Bhadraſéna, encamped near a ſacred hermitage; and I cannot at preſent applaud your panegyrick on hunting. This day, therefore, let the wild buffalos roll undiſturbed in the ſhallow water, or toſs up the ſand with their horns; let the herd of antelopes, aſſembled under the thick ſhade, ruminate without fear; let the large boars root up the herbage on the brink of yon pool; and let this my bow take repoſe with a ſlackened ſtring.

Gen. As our lord commands.

Duſhm. Recall the archers who have advanced before me, and forbid the officers to go very far from this hallowed grove. Let them beware of irritating the pious: holy men are eminent for patient virtues, yet conceal within their boſoms a ſcorching flame; as carbuncles are naturally cool to the touch; but, if the rays of the ſun have been imbibed by them, they burn the hand.

Mádh. Away now, and triumph on the delights of hunting.

Gen. The king's orders are obeyed.

[*He goes out.*

Duſhm. [*To his attendants.*] Put off your hunting apparel; and thou, Raivataca, continue in waiting at a little diſtance.

Cham. I ſhall obey. [*Goes out.*

Mádh. So! you have cleared the ſtage: not even a fly is left on it. Sit down, I pray, on this pavement of ſmooth pebbles, and the ſhade of this tree ſhall be your canopy: I will ſit by you; for I am impatient to know what will give me no fatigue.

Duſhm. Go firſt, and ſeat thyſelf.

Mádh. Come, my royal friend.

[*They both ſit under a tree.*

Duſhm. Friend Mádhavya, your eyes have not been gratified with an object which beſt deſerves to be ſeen.

Mádh. Yes, truly; for a king is before them.

Duſhm. All men are apt, indeed, to think favourably of themſelves; but I meant Sacontalá, the brighteſt ornament of theſe woods.

Mádh. [*Aſide.*] I muſt not foment this paſſion. —[*Aloud.*] What can you gain by ſeeing her? She is a Bráhmen's daughter, and conſequently no match for you!

Duſhm, What! Do people gaze at the new

moon, with uplifted heads and fixed eyes, from a hope of poſſeſſing it? But you muſt know, that the heart of Duſhmanta is not fixed on an object which he muſt for ever deſpair of attaining.

Mádh. Tell me how.

Duſhm. She is the daughter of a pious prince and warriour, by a celeſtial nymph; and, her mother having left her on earth, ſhe has been foſtered by Canna, even as a freſh bloſſom of Malati, which droops on its pendant ſtalk, is raiſed and expanded by the ſun's light.

Mádh. [*Laughing.*] Your deſire to poſſeſs this ruſtick girl, when you have women bright as gems in your palace already, is like the fancy of a man, who has loſt his reliſh for dates, and longs for the ſour tamarind.

Duſhm. Did you know her, you would not talk ſo wildly.

Mádh. Oh! certainly, whatever a king admires muſt be ſuperlatively charming.

Duſhm. [*Smiling.*] What need is there of long deſcription? When I meditate on the power of Brahmà, and on her lineaments, the creation of ſo tranſcendent a jewel outſhines, in my apprehenſion, all his other works: ſhe was formed and moulded in the eternal mind, which had raiſed with its utmoſt exertion, the ideas of perfect ſhapes, and thence made an aſſemblage of all abſtract beauties.

Mádh. She muſt render, then, all other handſome women contemptible.

Duſhm. In my mind ſhe really does. I know not yet what bleſſed inhabitant of this world will be the poſſeſſor of that faultleſs beauty, which now reſembles a bloſſom whoſe fragrance has not been diffuſed; a freſh leaf, which no hand has torn from its ſtalk; a pure diamond, which no poliſher has handled; new honey, whoſe ſweetneſs is yet untaſted; or rather the celeſtial fruit of collected virtues, to the perfection of which nothing can be added.

Mádh. Make haſte, then, or the fruit of all virtues will drop into the hand of ſome devout ruſtick, whoſe hair ſhines with oil of Ingudì.

Duſhm. She is not her own miſtreſs; and her foſter-father is at a diſtance.

Mádh. How is ſhe diſpoſed towards you?

Duſhm. My friend, the damſels in a hermit's family are naturally reſerved: yet ſhe did look at me, wiſhing to be unperceived; then ſhe ſmiled, and ſtarted a new ſubject of converſation. Love is by nature averſe to a ſudden communication, and hitherto neither fully diſplays, nor wholly conceals, himſelf in her demeanour towards me.

Mádh. [*Laughing.*] Has ſhe thus taken poſſeſſion of your heart on ſo tranſient a view?

Duſhm. When ſhe walked about with her

female friends, I ſaw her yet more diſtinctly, and my paſſion was greatly augmented. She ſaid ſweetly, but untruly, "My foot is hurt by "the points of the Cuſa graſs:" then ſhe ſtopped; but ſoon, advancing a few paces, turned back her face, pretending a wiſh to diſentangle her veſt of woven bark from the branches in which it had not really been caught.

Mádh. You began with chaſing an antelope, and have now ſtarted new game: thence it is, I preſume, that you are grown ſo fond of a conſecrated foreſt.

Duſhm. Now the buſineſs for you, which I mentioned, is this: you, who are a Bráhmen, muſt find ſome expedient for my ſecond entrance into that aſylum of virtue.

Mádh. And the advice which I give is this: remember that you are a king.

Duſhm. What then?

Mádh. "Hola! bid the hermits bring my "ſixth part of their grain." Say this, and enter the grove without ſcruple.

Duſhm. No, Mádhavya: they pay a different tribute, who, having abandoned all the gems and gold of this world, poſſeſs riches far ſuperior. The wealth of princes, collected from the four orders of their ſubjects, is periſhable; but pious men give us a ſixth part of the fruits of their piety; fruits which will never periſh.

Behind the ſcenes.] Happy men that we are! we have now attained the object of our deſire.

Duſhm. Hah! I hear the voices of ſome religious anchorites.

The Chamberlain *enters.*

Cham. May the king be victorious!—Two young men, ſons of a hermit, are waiting at my ſtation, and ſoliciting an audience.

Duſhm. Introduce them without delay.

Cham. As the king commands.—[*He goes out, and re-enters with two* Bráhmens.]—Come on; come this way.

Firſt Bráhm. [*Looking at the king.*] Oh! what confidence is inſpired by his brilliant appearance!—Or proceeds it rather from his diſpoſition to virtue and holineſs?——Whence comes it, that my fear vaniſhes?——He now has taken his abode in a wood which ſupplies us with every enjoyment; and with all his exertions for our ſafety, his devotion increaſes from day to day.—The praiſe of a monarch who has conquered his paſſions aſcends even to heaven: inſpired bards are continually ſinging, "Behold a virtuous prince!" but with us the royal name ſtands firſt: "Behold, among kings, a ſage!"

Second Bráhm. Is this, my friend, the truly virtuous Duſhmanta?

Firſt Bráhm. Even he.

Second Bráhm. It is not then wonderful, that he alone, whoſe arm is lofty and ſtrong as the main bar of his city gate, poſſeſſes the whole earth, which forms a dark boundary to the ocean; or that the gods of Swerga, who fiercely contend in battle with evil powers, proclaim victory gained by his braced bow, not by the thunderbolt of INDRA.

Both. [*Approaching him.*] O king, be victorious!

Duſhm. [*Riſing.*] I humbly ſalute you both.

Both. Bleſſings on thee!

Duſhm. [*Reſpectfully.*] May I know the cauſe of this viſit?

Firſt Bráhm. Our ſovereign is hailed by the pious inhabitants of theſe woods; and they implore——

Duſhm. What is their command?

Firſt Bráhm. In the abſence of our ſpiritual guide, Canna, ſome evil demons are diſturbing our holy retreat. Deign, therefore, accompanied by thy charioteer, to be maſter of our aſylum, if it be only for a few ſhort days.

Duſhm. [*Eagerly.*] I am highly favoured by your invitation.

Mádh. [*Aſide.*] Excellent promoters of your deſign! They draw you by the neck, but not againſt your will.

Duſhm. Raivataca, bid my charioteer bring my car, with my bow and quiver.

Cham. I obey. [*He goes out.*

First Bráhm. Such condescension well becomes thee, who art an universal guardian.

Second Bráhm. Thus do the descendants of Puru perform their engagement to deliver their subjects from fear of danger.

Dushm. Go first, holy men: I will follow instantly.

Both. Be ever victorious! [*They go out.*

Dushm. Shall you not be delighted, friend Mádhavya, to see my Sacontalá?

Mádh. At first I should have had no objection; but I have a considerable one since the story of the demons.

Dushm. Oh! fear nothing: you will be near me.

Mádh. And you, I hope, will have leisure to protect me from them.

The Chamberlain *re-enters.*

Cham. May our lord be victorious! The imperial car is ready; and all are expecting your triumphant approach. Carabba too, a messenger from the queen-mother, is just arrived from the city.

Dushm. Is he really come from the venerable queen?

Cham. There can be no doubt of it.

Dushm. Let him appear before me.

[*The* Chamberlain *goes out, and returns with the* Messenger.

Cham. There ſtands the king—O Carabba, approach him with reverence.

Meſſ. [*Proſtrating himſelf.*] May the king be ever victorious!——The royal mother ſends this meſſage——

Duſhm. Declare her command.

Meſſ. Four days hence the uſual faſt for the advancement of her ſon will be kept with ſolemnity; and the preſence of the king (may his life be prolonged!) will then be required.

Duſhm. On one hand is a commiſſion from holy Bráhmens; on the other, a command from my revered parent: both duties are ſacred, and neither muſt be neglected.

Mádh. [*Laughing.*] Stay ſuſpended between them both, like king Triſancu between heaven and earth; when the pious men ſaid, "Riſe!" and the gods of Swerga ſaid, "Fall!"

Duſhm. In truth I am greatly perplexed. My mind is principally diſtracted by the diſtance of the two places where the two duties are to be performed; as the ſtream of a river is divided by rocks in the middle of its bed.—[*Muſing.*]—Friend Mádhavya, my mother brought you up as her own ſon, to be my playfellow, and to divert me in my childhood. You may very properly act my part in the queen's devotions. Return then to the city, and give an account of my diſtreſs through the commiſſion of theſe reverend foreſters.

Mádh. That I will;—but you could not really ſuppoſe that I was afraid of demons!

Duſhm. How come you, who are an egregious Bráhmen, to be ſo bold on a ſudden?

Mádh. Oh! I am now a young king.

Duſhm. Yes, certainly; and I will diſpatch my whole train to attend your highneſs, whilſt I put an end to the diſturbance in this hermitage.

Mádh. [*Strutting.*] See, I am a prince regnant.

Duſhm. [*Aſide.*] This buffoon of a Bráhmen has a ſlippery genius. He will perhaps diſcloſe my preſent purſuit to the women in the palace. I muſt try to deceive him.—[*Taking* Mádhavya *by the hand.*]—I ſhall enter the foreſt, be aſſured, only through reſpect for its pious inhabitants; not from any inclination for the daughter of a hermit. How far am I raiſed above a girl educated among antelopes; a girl, whoſe heart muſt ever be a ſtranger to love!—The tale was invented for my diverſion.

Mádh. Yes, to be ſure; only for your diverſion.

Duſhm. Then farewel, my friend; execute my commiſſion faithfully, whilſt I proceed—— to defend the anchorites. [*All go out.*

ACT III.

SCENE—*The* HERMITAGE *in a Grove.*

The Hermit's Pupil *bearing conſecrated graſs.*

Pupil. [*Meditating with wonder.*]

HOW great is the power of Duſhmanta!—The monarch and his charioteer had no ſooner entered the grove than we continued our holy rites without interruption.—What words can deſcribe him?—By his barely aiming a ſhaft, by the mere ſound of his bow-ſtring, by the ſimple murmur of his vibrating bow, he diſperſes at once our calamities.—Now then I deliver to the prieſts this bundle of freſh Cuſa graſs to be ſcattered round the place of ſacrifice—[*Looking behind the ſcenes.*]—Ah! Priyamvadá, for whom are you carrying that ointment of Uſíra root, and thoſe leaves of water lilies?—[*Liſtening attentively.*]—What ſay you?—That Sacontalá is extremely diſordered by the ſun's heat, and that you have procured for her a cooling medicine! Let her, my Priyamvadá, be diligently attended; for ſhe is the darling of our venerable father Canna.—I will adminiſter, by the hand of Gau-

tamí, ſome healing water conſecrated in the ceremony called Vaitána. [*He goes out.*

Duſhmanta *enters, expreſſing the diſtraction of a lover.*

Duſhm. I well know the power of her devotion: that ſhe will ſuffer none to diſpoſe of her but Canna, I too well know. Yet my heart can no more return to its former placid ſtate, than water can reaſcend the ſteep, down which it has fallen.—O God of Love, how can thy darts be ſo keen, ſince they are pointed with flowers?—Yes, I diſcover the reaſon of their keenneſs. They are tipped with the flames which the wrath of Hara kindled, and which blaze at this moment, like the Bárava fire under the waves: how elſe couldſt thou, who waſt conſumed even to aſhes, be ſtill the inflamer of our ſouls? By thee and by the moon, though each of you ſeems worthy of confidence, we lovers are cruelly deceived. They who love as I do, aſcribe flowery ſhafts to thee, and cool beams to the moon, with equal impropriety; for the moon ſheds fire on them with her dewy rays, and thou pointeſt with ſharp diamonds thoſe arrows which ſeem to be barbed with bloſſoms. Yet this god, who bears a fiſh on his banners, and who wounds me to the ſoul, will give me real delight, if he deſtroy me with the aid of my beloved, whoſe

eyes are large and beautiful as thoſe of a roe.—O powerful divinity, even when I thus adore thy attributes, haſt thou no compaſſion? Thy fire, O Love, is fanned into a blaze by a hundred of my vain thoughts.—Does it become thee to draw thy bow even to thy ear, that the ſhaft, aimed at my boſom, may inflict a deeper wound? Where now can I recreate my afflicted ſoul by the permiſſion of thoſe pious men whoſe uneaſineſs I have removed by diſmiſſing my train? —[*Sighing.*]—I can have no relief but from a ſight of my beloved.—[*Looking up.*]—This intenſely hot noon muſt, no doubt, be paſſed by Sacontalá with her damſels on the banks of this river over-ſhadowed with Tamálas.—It muſt be ſo:—I will advance thither.—[*Walking round and looking.*]—My ſweet friend has, I gueſs, been lately walking under that row of young trees; for I ſee the ſtalks of ſome flowers, which probably ſhe gathered, ſtill unſhrivelled; and ſome freſh leaves, newly plucked, ſtill dropping milk.—[*Feeling a breeze.*]—Ah! this bank has a delightful air!—Here may the gale embrace me, wafting odours from the water lilies, and cool my breaſt, inflamed by the bodileſs god, with the liquid particles which it catches from the waves of the Málinì.—[*Looking down.*]—Happy lover! Sacontalá muſt be ſomewhere in this grove of flowering creepers; for I diſcern

on the yellow ſand at the door of yon arbour ſome recent footſteps, raiſed a little before, and depreſſed behind by the weight of her elegant limbs.——I ſhall have a better view from behind this thick foliage.—[*He conceals himſelf, looking vigilantly.*]—Now are my eyes fully gratified. The darling of my heart, with her two faithful attendants, repoſes on a ſmooth rock ſtrown with freſh flowers.—Theſe branches will hide me, whilſt I hear their charming converſation.

[*He ſtands concealed, and gazes.*

Sacontalá *and her two Damſels diſcovered.*

Both. [*Fanning her.*] Say, beloved Sacontalá, does the breeze, raiſed by our fans of broad lotos leaves, refreſh you?

Sac. [*Mournfully.*] Why, alas, do my dear friends take this trouble?

[*Both look ſorrowfully at each other.*

Duſhm. [*Aſide.*] Ah! ſhe ſeems much indiſpoſed. What can have been the fatal cauſe of ſo violent a fever?—Is it what my heart ſuggeſts? Or—[*Muſing*]—I am perplexed with doubts.—The medicine extracted from the balmy Uſíra has been applied, I ſee, to her boſom: her only bracelet is made of thin filaments from the ſtalks of a water lily, and even that is looſely bound on her arm. Yet, even thus diſordered, ſhe is exquiſitely beautiful.—Such are the hearts of

the young! Love and the ſun equally inflame us; but the ſcorching heat of ſummer leads not equally to happineſs with the ardour of youthful deſires.

Pri. [*Aſide to* Anuſúyá.] Did you not obſerve how the heart of Sacontalá was affected by the firſt ſight of our pious monarch? My ſuſpicion is, that her malady has no other cauſe.

Anu. [*Aſide to* Priyamvadá.] The ſame ſuſpicion had riſen in my mind. I will aſk her at once.—[*Aloud.*]—My ſweet Sacontalá, let me put one queſtion to you. What has really occaſioned your indiſpoſition?

Duſhm. [*Aſide.*] She muſt now declare it. Ah! though her bracelets of lotos are bright as moon beams, yet they are marked, I ſee, with black ſpots from internal ardour.

Sac. [*Half raiſing herſelf.*] Oh! ſay what you ſuſpect to have occaſioned it.

Anu. Sacontalá, we muſt neceſſarily be ignorant of what is paſſing in your breaſt; but I ſuſpect your caſe to be that which we have often heard related in tales of love. Tell us openly what cauſes your illneſs. A phyſician, without knowing the cauſe of a diſorder, cannot even begin to apply a remedy.

Duſhm. [*Aſide.*] I flatter myſelf with the ſame ſuſpicion.

Sac. [*Aſide.*] My pain is intolerable; yet I cannot haſtily diſcloſe the occaſion of it.

Pri. My ſweet friend, Anuſúyá, ſpeaks rationally. Conſider the violence of your indiſpoſition. Every day you will be more and more emaciated, though your exquiſite beauty has not yet forſaken you.

Duſhm. [*Aſide.*] Moſt true. Her forehead is parched; her neck droops; her waiſt is more ſlender than before; her ſhoulders languidly fall; her complection is wan; ſhe reſembles a Mádhaví creeper, whoſe leaves are dried by a ſultry gale: yet, even thus transformed, ſhe is lovely, and charms my ſoul.

Sac. [*Sighing.*] What more can I ſay? Ah! why ſhould I be the occaſion of your ſorrow?

Pri. For that very reaſon, my beloved, we are ſolicitous to know your ſecret; ſince, when each of us has a ſhare of your uneaſineſs, you will bear more eaſily your own portion of it.

Duſhm. [*Aſide.*] Thus urged by two friends, who ſhare her pains as well as her pleaſures, ſhe cannot fail to diſcloſe the hidden cauſe of her malady; whilſt I, on whom ſhe looked at our firſt interview with marked affection, am filled with anxious deſire to hear her anſwer.

Sac. From the very inſtant when the accompliſhed prince, who has juſt given repoſe to our hallowed foreſt, met my eye——

[*She breaks off, and looks modeſt.*

Both. Speak on, beloved Sacontalá.

Sac. From that inſtant my affection was un-

alterably fixed on him—and thence I am reduced to my preſent languor.

Anu. Fortunately your affection is placed on a man worthy of yourſelf.

Pri. Oh! could a fine river have deſerted the ſea and flowed into a lake?

Duſhm. [*Joyfully.*] That which I was eager to know, her own lips have told. Love was the cauſe of my diſtemper, and love has healed it; as a ſummer's day, grown black with clouds, relieves all animals from the heat which itſelf had cauſed.

Sac. If it be no diſagreeable taſk, contrive, I entreat you, ſome means by which I may find favour in the king's eyes.

Duſhm. [*Aſide.*] That requeſt baniſhes all my cares, and gives me rapture even in my preſent uneaſy ſituation.

Pri. [*Aſide to* Anuſúyá.] A remedy for her, my friend, will ſcarce be attainable. Exert all the powers of your mind; for her illneſs admits of no delay.

Anu. [*Aſide to* Priyamvadá.] By what expedient can her cure be both accelerated and kept ſecret?

Pri. [*As before.*] Oh! to keep it ſecret will be eaſy; but to attain it ſoon, almoſt inſuperably difficult.

Anu. [*As before.*] How ſo?

Pri. The young king ſeemed, I admit, by his tender glances, to be enamoured of her at firſt ſight; and he has been obſerved, within theſe few days, to be pale and thin, as if his paſſion had kept him long awake.

Duſhm. [*Aſide.*] So it has——This golden bracelet, ſullied by the flame which preys on me, and which no dew mitigates, but the tears guſhing nightly from theſe eyes, has fallen again and again on my wriſt, and has been replaced on my emaciated arm.

Pri. [*Aloud.*] I have a thought, Anuſúyá—Let us write a love letter, which I will conceal in a flower, and, under the pretext of making a reſpectful offering, deliver it myſelf into the king's hand.

Anu. An excellent contrivance! It pleaſes me highly;—but what ſays our beloved Sacontalá?

Sac. I muſt conſider, my friend, the poſſible conſequences of ſuch a ſtep.

Pri. Think alſo of a verſe or two, which may ſuit your paſſion, and be conſiſtent with the character of a lovely girl born in an exalted family.

Sac. I will think of them in due time; but my heart flutters with the apprehenſion of being rejected.

Duſhm. [*Aſide.*] Here ſtands the man ſupremely bleſſed in thy preſence, from whom, O timid girl, thou art apprehenſive of a refuſal!

Here ſtands the man, from whom, O beautiful maid, thou feareſt rejection, though he loves thee diſtractedly. He who ſhall poſſeſs thee will ſeek no brighter gem; and thou art the gem which I am eager to poſſeſs.

Anu. You depreciate, Sacontalá, your own incomparable merits. What man in his ſenſes would intercept with an umbrella the moonlight of autumn, which alone can allay the fever cauſed by the heat of the noon?

Sac. [*Smiling.*] I am engaged in thought.

[*She meditates.*

Duſhm. Thus then I fix my eyes on the lovely poeteſs, without cloſing them a moment, while ſhe meaſures the feet of her verſe: her forehead is gracefully moved in cadence, and her whole aſpect indicates pure affection.

Sac. I have thought of a couplet; but we have no writing implements.

Pri. Let us hear the words; and then I will mark them with my nail on this lotos leaf, ſoft and green as the breaſt of a young paroquet: it may eaſily be cut into the form of a letter.—Repeat the verſes.

Sac. "Thy heart, indeed, I know not: but "mine, oh! cruel, love warms by day and by "night; and all my faculties are centered on "thee."

Duſhm. [*Haſtily advancing, and pronouncing a verſe in the ſame meaſure.*] "Thee, O ſlender

" maid, love only warms; but me he burns;
" as the day-ſtar only ſtifles the fragrance of the
" night-flower, but quenches the very orb of
" the moon."

Anu. [*Looking at him joyfully.*] Welcome, great king: the fruit of my friend's imagination has ripened without delay.

[Sacontalá *expreſſes an inclination to riſe.*

Duſhm. Give yourſelf no pain. Thoſe delicate limbs, which repoſe on a couch of flowers, thoſe arms, whoſe bracelets of lotos are diſarranged by a ſlight preſſure, and that ſweet frame, which the hot noon ſeems to have diſordered, muſt not be fatigued by ceremony.

Sac. [*Aſide.*] O my heart, canſt thou not reſt at length after all thy ſufferings?

Anu. Let our ſovereign take for his ſeat a part of the rock on which ſhe repoſes.

[Sacontalá *makes a little room.*

Duſhm. [*Seating himſelf.*] Priyamvadá, is not the fever of your charming friend in ſome degree abated?

Pri. [*Smiling.*] She has juſt taken a ſalutary medicine, and will ſoon be reſtored to health. But, O mighty prince, as I am favoured by you and by her, my friendſhip for Sacontalá prompts me to converſe with you for a few moments.

Duſhm. Excellent damſel, ſpeak openly; and ſuppreſs nothing.

Pri. Our lord ſhall hear.

Duſhm. I am attentive.

Pri. By diſpelling the alarms of our pious hermits, you have diſcharged the duty of a great monarch.

Duſhm. Oh! talk a little on other ſubjects.

Pri. Then I muſt inform you that our beloved companion is enamoured of you, and has been reduced to her preſent languor by the reſiſtleſs divinity, love. You only can preſerve her ineſtimable life.

Duſhm. Sweet Priyamvadá, our paſſion is reciprocal; but it is I who am honoured.

Sac. [*Smiling, with a mixture of affection and reſentment.*] Why ſhould you detain the virtuous monarch, who muſt be afflicted by ſo long an abſence from the ſecret apartments of his palace?

Duſhm. This heart of mine, oh thou who art of all things the deareſt to it, will have no object but thee, whoſe eyes enchant me with their black ſplendour, if thou wilt but ſpeak in a milder ſtrain. I, who was nearly ſlain by love's arrow, am deſtroyed by thy ſpeech.

Anu. [*Laughing.*] Princes are ſaid to have many favourite conſorts. You muſt aſſure us, therefore, that our beloved friend ſhall not be expoſed to affliction through our conduct.

Duſhm. What need is there of many words? Let there be ever ſo many women in my pa-

lace, I will have only two objects of perfect regard; the ſea-girt earth, which I govern, and your ſweet friend, whom I love.

Both. Our anxiety is diſſipated.

[Sacontalá *ſtrives in vain to conceal her joy.*

Pri. [*Aſide to* Anuſúyá.] See how our friend recovers her ſpirits by little and little, as the peahen, oppreſſed by the ſummer heat, is refreſhed by a ſoft gale and a gentle ſhower.

Sac. [*To the damſels.*] Forgive, I pray, my offence in having uſed unmeaning words: they were uttered only for your amuſement in return for your tender care of me.

Pri. They were the occaſion, indeed, of our ſerious advice. But it is the king who muſt forgive: who elſe is offended?

Sac. The great monarch will, I truſt, excuſe what has been ſaid either before him or in his abſence.—[*Aſide to the damſels.*] Intercede with him, I entreat you.

Duſhm. [*Smiling.*] I would cheerfully forgive any offence, lovely Sacontalá, if you, who have dominion over my heart, would allow me full room to ſit by you, and recover from my fatigue, on this flowery couch preſſed by your delicate limbs.

Pri. Allow him room; it will appeaſe him, and make him happy.

Sac. [*Pretending anger, aſide to* Priyamvadá.]

Be quiet, thou miſchief-making girl! Doſt thou ſport with me in my preſent weak ſtate?

Anu. [*Looking behind the ſcenes.*] O! my Priyamvadá, there is our favourite young antelope running wildly and turning his eyes on all ſides: he is, no doubt, ſeeking his mother, who has rambled in the wide foreſt. I muſt go and aſſiſt his ſearch.

Pri. He is very nimble; and you alone will never be able to confine him in one place. I muſt accompany you.

[*Both going out.*

Sac. Alas! I cannot conſent to your going far: I ſhall be left alone.

Both. [*Smiling.*] Alone! with the ſovereign of the world by your ſide!

[*They go out.*

Sac. How could my companions both leave me?

Duſhm. Sweet maid, give yourſelf no concern. Am not I, who humbly ſolicit your favour, preſent in the room of them?—[*Aſide.*]—I muſt declare my paſſion.——[*Aloud.*]—Why ſhould not I, like them, wave this fan of lotos leaves, to raiſe cool breezes and diſſipate your uneaſineſs? Why ſhould not I, like them, lay ſoftly in my lap thoſe feet, red as water lilies, and preſs them, O my charmer, to relieve your pain?

Sac. I ſhould offend againſt myſelf, by receiving homage from a perſon entitled to my reſpect.

[*She riſes, and walks ſlowly through weakneſs.*

Duſhm. The noon, my love, is not yet paſſed; and your ſweet limbs are weak. Having left that couch where freſh flowers covered your boſom, you can ill ſuſtain this intenſe heat with ſo languid a frame. [*He gently draws her back.*

Sac. Leave me, oh leave me. I am not, indeed, my own miſtreſs, or——the two damſels were only appointed to attend me. What can I do at preſent?

Duſhm. [*Aſide.*] Fear of diſpleaſing her makes me baſhful.

Sac. [*Overhearing him.*] The king cannot give offence. It is my unhappy fate only that I accuſe.

Duſhm. Why ſhould you accuſe ſo favourable a deſtiny?

Sac. How rather can I help blaming it, ſince it has permitted my heart to be affected by amiable qualities, without having left me at my own diſpoſal?

Duſhm. [*Aſide.*] One would imagine that the charming ſex, inſtead of being, like us, tormented with love, kept love himſelf within their hearts, to torment him with delay.

[Sacontalá *going out.*

Duſhm. [*Aſide.*] How! muſt I then fail of attaining felicity?

[*Following her, and catching the ſkirt of her mantle.*

Sac. [*Turning back.*] Son of Puru, preſerve thy reaſon; oh! preſerve it.—The hermits are buſy on all ſides of the grove.

Duſhm. My charmer, your fear of them is vain. Canna himſelf, who is deeply verſed in the ſcience of law, will be no obſtacle to our union. Many daughters of the holieſt men have been married by the ceremony called Gándharva, as it is practiſed by Indra's band, and even their fathers have approved them.—[*Looking round.*]—What ſay you? are you ſtill inflexible? Alas! I muſt then depart.

[*Going from her a few paces, then looking back.*

Sac. [*Moving alſo a few ſteps, aud then turning back her face.*] Though I have refuſed compliance, and have only allowed you to converſe with me for a moment, yet, O ſon of Puru—— let not Sacontalá be wholly forgotten.

Duſhm. Enchanting girl, ſhould you be removed to the ends of the world, you will be fixed in this heart, as the ſhade of a lofty tree remains with it even when the day is departed.

Sac. [*Going out, aſide.*] Since I have heard his proteſtations, my feet move, indeed, but

without advancing. I will conceal myſelf behind thoſe flowering Curuvacas, and thence I ſhall ſee the reſult of his paſſion.

[*She hides herſelf behind the ſhrubs.*

Duſhm. [*Aſide.*] Can you leave me, beloved Sacontalá; me who am all affection? Could you not have tarried a ſingle moment? Soft is your beautiful frame, and indicates a benevolent ſoul; yet your heart is obdurate: as the tender Siríſha hangs on a hard ſtalk.

Sac. [*Aſide.*] I really have now loſt the power of departing.

Duſhm. [*Aſide.*] What can I do in this retreat ſince my darling has left it?—[*Muſing and looking round.*]—Ah! my departure is happily delayed.—Here lies her bracelet of flowers, exquiſitely perfumed by the root of Uſîra which had been ſpread on her boſom: it has fallen from her delicate wriſt, and is become a new chain for my heart.

[*Taking up the bracelet with reverence.*

Sac. [*Aſide, looking at her hand.*] Ah me! ſuch was my languor, that the filaments of lotos ſtalks which bound my arm dropped on the ground unperceived by me.

Duſhm. [*Aſide, placing it in his boſom.*] Oh! how delightful to the touch!—From this ornament of your lovely arm, O my darling, though it be inanimate and ſenſeleſs, your unhappy lover

has regained confidence—a bliſs which you refuſed to confer.

Sac. [*Aſide.*] I can ſtay here no longer. By this pretext I may return.

[*Going ſlowly towards him.*

Duſhm. [*With rapture.*] Ah! the empreſs of my ſoul again bleſſes theſe eyes. After all my miſery I was deſtined to be favoured by indulgent heaven.—The bird Chátac, whoſe throat was parched with thirſt, ſupplicated for a drop of water, and ſuddenly a cool ſtream poured into his bill from the bounty of a freſh cloud.

Sac. Mighty king, when I had gone half way to the cottage, I perceived that my bracelet of thin ſtalks had fallen from my wriſt; and I return becauſe my heart is almoſt convinced that you muſt have ſeen and taken it. Reſtore it, I humbly entreat, leſt you expoſe both yourſelf and me to the cenſure of the hermits.

Duſhm. Yes, on one condition I will return it.

Sac. On what condition? Speak——

Duſhm. That I may replace it on the wriſt to which it belongs.

Sac. [*Aſide.*] I have no alternative.

[*Approaching him.*

Duſhm. But in order to replace it, we muſt both be ſeated on that ſmooth rock.

[*Both ſit down.*

Duſhm. [*Taking her hand.*] O exquiſite ſoftneſs! This hand has regained its native ſtrength and beauty, like a young ſhoot of Cámalatà: or it reſembles rather the god of love himſelf, when, having been conſumed by the fire of Hara's wrath, he was reſtored to life by a ſhower of nectar ſprinkled by the immortals.

Sac. [*Preſſing his hand.*] Let the ſon of my lord make haſte to tie on the bracelet.

Duſhm. [*Aſide, with rapture.*] Now I am truly bleſſed.—That phraſe, the ſon of my lord, is applied only to a huſband.—[*Aloud.*]—My charmer, the claſp of this bracelet is not eaſily looſened: it muſt be made to fit you better.

Sac. [*Smiling.*] As you pleaſe.

Duſhm. [*Quitting her hand.*] Look, my darling: this is the new moon which left the firmament in honour of ſuperior beauty, and, having deſcended on your enchanting wriſt, has joined both its horns round it in the ſhape of a bracelet.

Sac. I really ſee nothing like a moon: the breeze, I ſuppoſe, has ſhaken ſome duſt from the lotos flower behind my ears, and that has obſcured my ſight.

Duſhm. [*Smiling.*] If you permit me, I will blow the fragrant duſt from your eye.

Sac. It would be a kindneſs; but I cannot truſt you.

Duſhm. Oh! fear not, fear not. A new ſervant never tranſgreſſes the command of his miſtreſs.

Sac. But a ſervant over-aſſiduous deſerves no confidence.

Duſhm. [*Aſide.*] I will not let ſlip this charming occaſion.——[*Attempting to raiſe her head*—Sacontalá *faintly repels him, but ſits ſtill.*]——O damſel with an antelope's eyes, be not apprehenſive of my indiſcretion.——[Sacontalá *looks up for a moment, and then baſhfully drops her head* —Duſhmanta, *aſide, gently raiſing her head.*]—That lip, the ſoftneſs of which is imagined, not proved, ſeems to pronounce, with a delightful tremour, its permiſſion for me to allay my thirſt.

Sac. The ſon of my lord ſeems inclined to break his promiſe.

Duſhm. Beloved, I was deceived by the proximity of the lotos to that eye which equals it in brightneſs. [*He blows gently on her eye.*

Sac. Well: now I ſee a prince who keeps his word as it becomes his imperial character. Yet I am really aſhamed that no deſert of mine entitles me to the kind ſervice of my lord's ſon.

Duſhm. What reward can I deſire, except that which I conſider as the greateſt, the fragrance of your delicious lip?

Sac. Will that content you?

Duſhm. The bee is contented with the mere odour of the water lily.

Sac. If he were not, he would get no remedy.

Duſhm. Yes, this and this——

[*Kiſſing her eagerly.*

Behind the ſcenes. Hark! the Chacraváca is calling her mate on the bank of the Málinì: the night is beginning to ſpread her ſhades.

Sac. [*Liſtening alarmed.*] O ſon of my lord, the matron Gautamí approaches to enquire after my health. Hide yourſelf, I entreat, behind yon trees.

Duſhm. I yield to neceſſity. [*He retires.*

Gautamí *enters with a vaſe in her hand.*

Gaut. [*Looking anxiouſly at* Sacontalá.] My child, here is holy water for thee.—What! haſt thou no companion here but the inviſible gods; thou who art ſo much indiſpoſed?

Sac. Both Priyamvadá and Anuſúyá are juſt gone down to the river.

Gaut. [*Sprinkling her.*] Is thy fever, my child, a little abated?

[*Feeling her hand.*

Sac. Venerable matron, there is a change for the better.

Gaut. Then thou art in no danger. Mayſt thou live many years! The day is departing: let us both go to the cottage.

Sac. [*Aſide, riſing ſlowly.*] O my heart, no ſooner hadſt thou begun to taſte happineſs, than the occaſion ſlipped away! [*She advances a few ſteps, and returns to the arbour.*]—O bower of twining plants, by whom my ſorrows have been diſpelled, on thee I call; ardently hoping to be once more happy under thy ſhade.

[*She goes out with* Gautamí.

Duſhm. [*Returning to the bower, and ſighing.*] How, alas, have my deſires been obſtructed!—Could I do leſs than kiſs the lips of my charmer, though her modeſt cheeks were half averted; lips, whoſe ſweetneſs had enchanted me, even when they pronounced a denial?—Whither now can I go? I will remain a while in this arbour of creepers, which my darling's preſence has illuminated.——[*Looking round.*]—Yes; this is her ſeat on the rock, ſpread with bloſſoms, which have been preſſed by her delicate limbs.—Here lies her exquiſite love letter on the leaf of a water lily; here lay her bracelet of tender filaments which had fallen from her ſweet wriſt.—Though the bower of twining Vétaſas be now deſolate, ſince my charmer has left it, yet, while my eyes are fixed on all theſe delightful memorials of her, I am unable to depart.——[*Muſing.*]—Ah! how imperfectly has this affair been conducted by a lover, like me, who, with his darling by his ſide, has let the occaſion ſlip.—Should Sacontalá

viſit once more this calm retreat, the opportunity ſhall not paſs again unimproved: the pleaſures of youth are by nature tranſitory.—Thus my fooliſh heart forms reſolutions, while it is diſtracted by the ſudden interruption of its happineſs. Why did it ever allow me to quit without effect the preſence of my beloved?

Behind the ſcenes. O king, while we are beginning our evening ſacrifice, the figures of blood-thirſty demons, embrowned by clouds collected at the departure of day, glide over the ſacred hearth, and ſpread conſternation around.

Duſhm. Fear not, holy men.—Your king will protect you. [*He goes out.*

ACT IV.

SCENE—*A* LAWN *before the Cottage.*

The two damſels are diſcovered gathering flowers.

Anuſúyá.

O MY Priyamvadá, though our ſweet friend has been happily married, according to the rites of Gandharvas, to a bridegroom equal in rank and accompliſhments, yet my affectionate heart is not wholly free from care; and one doubt gives me particular uneaſineſs.

Pri. What doubt, my Anuſúyá?

Anu. This morning the pious prince was diſmiſſed with gratitude by our hermits, who had then completed their myſtick rites: he is now gone to his capital, Haſtinápura, where, ſurrounded by a hundred women in the receſſes of his palace, it may be doubted whether he will remember his charming bride.

Pri. In that reſpect you may be quite eaſy. Men, ſo well informed and well educated as he, can never be utterly deſtitute of honour.—We have another thing to conſider. When our father Canna ſhall return from his pilgrimage, and

ſhall hear what has paſſed, I cannot tell how he may receive the intelligence.

Anu. If you aſk my opinion, he will, I think, approve of the marriage.

Pri. Why do you think ſo?

Anu. Becauſe he could deſire nothing better, than that a huſband ſo accompliſhed and ſo exalted ſhould take Sacontalá by the hand. It was, you know, the declared object of his heart, that ſhe might be ſuitably married; and, ſince heaven has done for him what he moſt wiſhed to do, how can he poſſibly be diſſatisfied?

Pri. You reaſon well; but—[*Looking at her baſket.*]—My friend, we have plucked a ſufficient ſtore of flowers to ſcatter over the place of ſacrifice.

Anu. Let us gather more to decorate the temples of the goddeſſes who have procured for Sacontalá ſo much good fortune.

[*They both gather more flowers.*

Behind the ſcenes. It is I——Hola!

Anu. [*Liſtening.*] I hear the voice, as it ſeems, of a gueſt arrived in the hermitage.

Pri. Let us haſten thither. Sacontalá is now repoſing; but though we may, when ſhe wakes, enjoy her preſence, yet her mind will all day be abſent with her departed lord.

Anu. Be it ſo; but we have occaſion, you know, for all theſe flowers. [*They advance.*

Again behind the ſcenes. How! doſt thou ſhow no attention to a gueſt? Then hear my imprecations——"He on whom thou art medi-
" tating, on whom alone thy heart is now fixed,
" while thou neglecteſt a pure gem of devotion
" who demands hoſpitality, ſhall forget thee,
" when thou ſeeſt him next, as a man reſtored
" to ſobriety forgets the words which he uttered
" in a ſtate of intoxication."

[*Both damſels look at each other with affliction.*

Pri. Wo is me! Dreadful calamity! Our beloved friend has, through mere abſence of mind, provoked by her neglect, ſome holy man who expected reverence.

Anu. [*Looking.*] It muſt be ſo; for the cholerick Durváſas is going haſtily back.

Pri. Who elſe has power to conſume, like raging fire, whatever offends him? Go, my Anuſúyá; fall at his feet, and perſuade him, if poſſible, to return: in the mean time I will prepare water and refreſhments for him.

Anu. I go with eagerneſs. [*She goes out.*

Pri. [*Advancing haſtily, her foot ſlips.*] Ah! through my eager haſte I have let the baſket fall; and my religious duties muſt not be poſtponed. [*She gathers freſh flowers,*

Anuſúyá *re-enters.*

Anu. His wrath, my beloved, paſſes all bounds.

—Who living could now appeaſe him by the humbleſt proſtrations or entreaties? yet at laſt he a little relented.

Pri. That little is a great deal for him.—But inform me how you ſoothed him in any degree.

Anu. When he poſitively refuſed to come back, I threw myſelf at his feet, and thus addreſſed him: "Holy ſage, forgive, I entreat, "the offence of an amiable girl, who has the "higheſt veneration for you, but was ignorant, "through diſtraction of mind, how exalted a per-"ſonage was calling to her."

Pri. What then? What ſaid he?

Anu. He anſwered thus: "My word muſt "not be recalled; but the ſpell which it has "raiſed ſhall be wholly removed when her lord "ſhall ſee his ring." Saying this, he diſappeared.

Pri. We may now have confidence; for before the monarch departed, he fixed with his own hand on the finger of Sacontalá the ring, on which we ſaw the name Duſhmanta engraved, and which we will inſtantly recognize. On him therefore alone will depend the remedy for our misfortune.

Anu. Come, let us now proceed to the ſhrines of the goddeſſes, and implore their ſuccour.

[*Both advance.*

Pri. [*Looking.*] See, my Anuſúyá, where our

beloved friend ſits, motionless as a picture, ſupporting her languid head with her left hand. With a mind ſo intent on one object, ſhe can pay no attention to herſelf, much leſs to a ſtranger.

Anu. Let the horrid imprecation, Priyamvadá, remain a ſecret between us two: we muſt ſpare the feelings of our beloved, who is naturally ſuſceptible of quick emotions.

Pri. Who would pour boiling water on the bloſſom of a tender Mallicá? [*Both go out.*

A Pupil *of* Canna *enters.*

Pup. I am ordered by the venerable Canna, who is returned from the place of his pilgrimage, to obſerve the time of the night, and am, therefore, come forth to ſee how much remains of it. [*Walking round, and obſerving the heavens.*]—On one ſide, the moon, who kindles the flowers of the Oſhadhì, has nearly ſunk in his weſtern bed; and, on the other, the ſun, ſeated behind his charioteer Arun, is beginning his courſe: the luſtre of them both is conſpicuous, when they riſe and when they ſet; and by their example ſhould men be equally firm in proſperous and in adverſe fortune.—The moon has now diſappeared, and the night flower pleaſes no more: it leaves only a remembrance of its odour, and languiſhes like a tender bride whoſe pain is intolerable in the abſence of her beloved.—The

ruddy morn impurples the dew drops on the branches of yonder Vadarí; the peacock, ſhaking off ſleep, haſtens from the cottages of hermits interwoven with holy graſs; and yonder antelope, ſpringing haſtily from the place of ſacrifice, which is marked with his hoofs, raiſes himſelf on high, and ſtretches his graceful limbs. —How is the moon fallen from the ſky with diminiſhed beams! the moon who had ſet his foot on the head of Suméru, king of mountains, and had climbed, ſcattering the rear of darkneſs, even to the central palace of Viſhnu!—Thus do the great men of this world aſcend with extreme labour to the ſummit of ambition, but eaſily and quickly deſcend from it.

Anuſúyá *enters meditating.*

Anu. [*Aſide.*] Such has been the affection of Sacontalá, though ſhe was bred in auſtere devotion, averſe from ſenſual enjoyments!—How unkind was the king to leave her!

Pup. [*Aſide.*] The proper time is come for performing the hóma: I muſt appriſe our preceptor of it. [*He goes out.*

Anu. The ſhades of night are diſperſed; and I am hardly awake; but were I ever ſo perfectly in my ſenſes, what could I now do? My hands move not readily to the uſual occupations of the morning.—Let the blame be caſt on love,

on love only, by whom our friend has been reduced to her preſent condition, through a monarch who has broken his word.—Or does the imprecation of Durváſas already prevail?—How elſe could a virtuous king, who made ſo ſolemn an engagement, have ſuffered ſo long a time to elapſe without ſending even a meſſage?—Shall we convey the fatal ring to him?—Or what expedient can be ſuggeſted for the relief of this incomparable girl, who mourns without ceaſing?—Yet what fault has ſhe committed?—With all my zeal for her happineſs, I cannot ſummon courage enough to inform our father Canna that ſhe is pregnant.—What then, oh! what ſtep can I take to relieve her anxiety?

Priyamvadá *enters.*

Pri. Come, Anuſúyá, come quickly. They are making ſuitable preparations for conducting Sacontalá to her huſband's palace.

Anu. [*With ſurpriſe.*] What ſay you, my friend?

Pri. Hear me. I went juſt now to Sacontalá, meaning only to aſk if ſhe had ſlept well—

Anu. What then? oh! what then?

Pri. She was ſitting with her head bent on her knee, when our father Canna, entering her apartment, embraced and congratulated her.—"My ſweet child," ſaid he, "there has been a "happy omen: the young Bráhmen who offi-

"ciated in our morning ſacrifice, though his "ſight was impeded by clouds of ſmoke, drop- "ped the clarified butter into the very centre of "the adorable flame.—Now, ſince the pious act "of my pupil has proſpered, my foſter child "muſt not be ſuffered any longer to languiſh in "ſorrow; and this day I am determined to ſend "thee from the cottage of the old hermit who "bred thee up, to the palace of the monarch who "has taken thee by the hand."

Anu. My friend, who told Canna what paſſed in his abſence?

Pri. When he entered the place where the holy fire was blazing, he heard a voice from heaven pronouncing divine meaſures.—

Anu. [*Amazed.*] Ah! you aſtoniſh me.

Pri. Hear the celeſtial verſe:—"Know that "thy adopted daughter, O pious Bráhmen, has "received from Duſhmanta a ray of glory de- "ſtined to rule the world; as the wood Samì "becomes pregnant with myſterious fire."

Anu. [*Embracing* Priyamvadá.] I am delighted, my beloved; I am tranſported with joy. But —ſince they mean to deprive us of our friend ſo ſoon as to-day, I feel that my delight is at leaſt equalled by my ſorrow.

Pri. Oh! we muſt ſubmit patiently to the anguiſh of parting. Our beloved friend will now be happy; and that ſhould conſole us.

Anu. Let us now make haſte to dreſs her in

bridal array. I have already, for that purpoſe, filled the ſhell of a cocoa nut, which you ſee fixed on an Amra tree, with the fragrant duſt of Nágacéſaras: take it down, and keep it in a freſh lotos leaf, whilſt I collect ſome Góráchana from the forehead of a ſacred cow, ſome earth from conſecrated ground, and ſome freſh Cuſa graſs, of which I will make a paſte to enſure good fortune.

Pri. By all means. [*She takes down the perfume.*—Anuſúyá *goes out.*

Behind the ſcenes. O Gautamí, bid the two Miſras, Sárngarava and Sáradwata, make ready to accompany my child Sacontalá.

Pri. [*Liſtening.*] Loſe no time, Anuſúyá, loſe no time. Our father Canna is giving orders for the intended journey to Haſtinápura.

Anuſúyá *re-enters with the ingredients of her charm.*

Anu. I am here: let us go, my Priyamvadá. [*They both advance.*

Pri. [*Looking.*] There ſtands our Sacontalá, after her bath at ſunriſe, while many holy women, who are congratulating her, carry baſkets of hallowed grain.—Let us haſten to greet her.

Enter Sacontalá, Gautamí, *and female Hermits.*

Sac. I proſtrate myſelf before the goddeſs.

Gaut. My child, thou canſt not pronounce too often the word goddeſs: thus wilt thou procure great felicity for thy lord.

Herm. Mayſt thou, O royal bride, be delivered of a hero! [*The* Hermits *go out.*

Both damſels. [*Approaching* Sacontalá] Beloved friend, was your bath pleaſant?

Sac. O! my friends, you are welcome: let us ſit a while together. [*They ſeat themſelves.*

Anu. Now you muſt be patient, whilſt I bind on a charm to ſecure your happineſs.

Sac. That is kind.—Much has been decided this day: and the pleaſure of being thus attended by my ſweet friends will not ſoon return.

[*Wiping off her tears.*

Pri. Beloved, it is unbecoming to weep at a time when you are going to be ſo happy.—[*Both damſels burſt into tears as they dreſs her.*]—Your elegant perſon deſerves richer apparel: it is now decorated with ſuch rude flowers as we could procure in this foreſt.

Canna's Pupil *enters with rich clothes.*

Pup. Here is a complete dreſs. Let the queen wear it auſpiciouſly; and may her life be long!

[*The women look with aſtoniſhment.*

Gaut. My ſon, Hárita, whence came this apparel?

Pup. From the devotion of our father Canna.

Gaut. What doſt thou mean?

Pup. Be attentive. The venerable ſage gave this order: "Bring freſh flowers for Sacontalá "from the moſt beautiful trees;" and ſuddenly the woodnymphs appeared, raiſing their hands, which rivalled new leaves in beauty and ſoftneſs. Some of them wove a lower mantle bright as the moon, the preſage of her felicity; another preſſed the juice of Lácſhà to ſtain her feet exquiſitely red; the reſt were buſied in forming the gayeſt ornaments; and they eagerly ſhowered their gifts on us.

Pri. [*Looking at* Sacontalá.] Thus it is, that even the bee, whoſe neſt is within the hollow trunk, does homage to the honey of the lotos flower.

Gaut. The nymphs muſt have been commiſſioned by the goddeſs of the king's fortune, to predict the acceſſion of brighter ornaments in his palace. [Sacontalá *looks modeſt.*

Pup. I muſt haſten to Canna, who is gone to bathe in the Málinì, and let him know the ſignal kindneſs of the woodnymphs. [*He goes out.*

Anu. My ſweet friend, I little expected ſo ſplendid a dreſs:—how ſhall I adjuſt it properly?—[*Conſidering.*]—Oh! my ſkill in painting will ſupply me with ſome hints; and I will diſpoſe the drapery according to art.

Sac. I well know your affection for him.

Canna *enters meditating.*

Can. [*Aſide.*] This day muſt Sacontalá depart: that is reſolved; yet my ſoul is ſmitten with anguiſh.—My ſpeech is interrupted by a torrent of tears, which my reaſon ſuppreſſes and turns inward: my very ſight is dimmed.—Strange that the affliction of a foreſter, retired from the haunts of men, ſhould be ſo exceſſive!—Oh, with what pangs muſt they who are fathers of families, be afflicted on the departure of a daughter! [*He walks round muſing.*

Pri. Now, my Sacontalá, you are becomingly decorated: put on this lower veſt, the gift of ſylvan goddeſſes.

[Sacontalá *riſes, and puts on the mantle.*

Gaut. My child, thy ſpiritual father, whoſe eyes overflow with tears of joy, ſtands deſiring to embrace thee. Haſten, therefore, to do him reverence. [Sacontalá *modeſtly bows to him.*

Can. Mayſt thou be cheriſhed by thy huſband, as Sarmiſhthà was cheriſhed by Yayáti! Mayſt thou bring forth a ſovereign of the world, as ſhe brought forth Puru!

Gaut. This, my child, is not a mere benediction; it is a boon actually conferred.

Can. My beſt beloved, come and walk with me round the ſacrificial fire.—[*They all advance.*]—May theſe fires preſerve thee! Fires which

ſpring to their appointed ſtations on the holy hearth, and conſume the conſecrated wood, while the freſh blades of myſterious Cuſa lie ſcattered around them!—Sacramental fires, which deſtroy ſin with the riſing fumes of clarified butter!—[Sacontalá *walks with ſolemnity round the hearth.*]—Now ſet out, my darling, on thy auſpicious journey.—[*Looking round.*]—Where are the attendants, the two Miſras?

Enter Sárngarava *and* Sáradwata.

Both. Holy ſage, we are here.

Can. My ſon, Sárngarava, ſhow thy ſiſter her way.

Sárn. Come, damſel.———

[*They all advance.*

Can. Hear, all ye trees of this hallowed foreſt; ye trees, in which the ſylvan goddeſſes have their abode; hear, and proclaim, that Sacontalá is going to the palace of her wedded lord; ſhe who drank not, though thirſty, before you were watered; ſhe who cropped not, through affection for you, one of your freſh leaves, though ſhe would have been pleaſed with ſuch an ornament for her locks; ſhe whoſe chief delight was in the ſeaſon when your branches are ſpangled with flowers!

CHORUS *of inviſible* WOODNYMPHS.

May her way be attended with proſperity! May propitious breezes ſprinkle, for her delight, the odoriferous duſt of rich bloſſoms! May pools of clear water, green with the leaves of the lotos, refreſh her as ſhe walks! and may ſhady branches be her defence from the ſcorching ſunbeams! [*All liſten with admiration.*

Sárn. Was that the voice of the Cócila wiſhing a happy journey to Sacontalá?—Or did the nymphs, who are allied to the pious inhabitants of theſe woods, repeat the warbling of the muſical bird, and make its greeting their own?

Gaut. Daughter, the ſylvan goddeſſes, who love their kindred hermits, have wiſhed you proſperity, and are entitled to humble thanks.

[Sacontalá *walks round, bowing to the nymphs.*

Sac. [*Aſide to* Priyamvadá.] Delighted as I am, O Priyamvadá, with the thought of ſeeing again the ſon of my lord, yet, on leaving this grove, my early aſylum, I am ſcarce able to walk.

Pri. You lament not alone.——Mark the affliction of the foreſt itſelf when the time of your departure approaches!——The female antelope browſes no more on the collected Cuſa graſs; and the peahen ceaſes to dance on the lawn: the very plants of the grove, whoſe pale

leaves fall on the ground, loſe their ſtrength and their beauty.

Sac. Venerable father, ſuffer me to addreſs this Mádhaví creeper, whoſe red bloſſoms inflame the grove.

Can. My child, I know thy affection for it.

Sac. [*Embracing the plant.*] O moſt radiant of twining plants, receive my embraces, and return them with thy flexible arms: from this day, though removed to a fatal diſtance, I ſhall for ever be thine.—O beloved father, conſider this creeper as myſelf.

Can. My darling, thy amiable qualities have gained thee a huſband equal to thyſelf: ſuch an event has been long, for thy ſake, the chief object of my heart; and now, ſince my ſolicitude for thy marriage is at an end, I will marry thy favourite plant to the bridegroom Amra, who ſheds fragrance near her.——Proceed, my child, on thy journey.

Sac. [*Approaching the two damſels.*] Sweet friends, let this Mádhaví creeper be a precious depoſit in your hands.

Anu. and Pri. Alas! in whoſe care ſhall we be left? [*They both weep.*

Can. Tears are vain, Anuſúyá: our Sacontalá ought rather to be ſupported by your firmneſs, than weakened by your weeping.

[*All advance.*

Sac. Father! when yon female antelope, who now moves ſlowly from the weight of the young ones with which ſhe is pregnant, ſhall be delivered of them, ſend me, I beg, a kind meſſage with tidings of her ſafety.——Do not forget.

Can. My beloved, I will not forget it.

Sac. [*Advancing, then ſtopping.*] Ah! what is it that clings to the ſkirts of my robe, and detains me? [*She turns round, and looks.*

Can. It is thy adopted child, the little fawn, whoſe mouth, when the ſharp points of Cuſa graſs had wounded it, has been ſo often ſmeared by thy hand with the healing oil of Ingudì; who has been ſo often fed by thee with a handful of Syámáka grains, and now will not leave the footſteps of his protectreſs.

Sac. Why doſt thou weep, tender fawn, for me, who muſt leave our common dwelling-place? —As thou waſt reared by me when thou hadſt loſt thy mother, who died ſoon after thy birth, ſo will my foſter-father attend thee, when we are ſeparated, with anxious care.—Return, poor thing, return—we muſt part.

[*She burſts into tears.*

Can. Thy tears, my child, ill ſuit the occaſion: we ſhall all meet again: be firm: ſee the direct road before thee, and follow it.—When the big tear lurks beneath thy beautiful eyelaſhes, let thy reſolution check its firſt efforts to

diſengage itſelf.—In thy paſſage over this earth, where the paths are now high, now low, and the true path ſeldom diſtinguiſhed, the traces of thy feet muſt needs be unequal; but virtue will preſs thee right onward.

Sárn. It is a ſacred rule, holy ſage, that a benevolent man ſhould accompany a traveller till he meet with abundance of water; and that rule you have carefully obſerved: we are now near the brink of a large pool. Give us, therefore, your commands, and return.

Can. Let us reſt a while under the ſhade of this Vata tree——[*They all go to the ſhade.*]—What meſſage can I ſend with propriety to the noble Duſhmanta?

[*He meditates.*

Anu. [*Aſide to* Sacontalá.] My beloved friend, every heart in our aſylum is fixed on you alone, and all are afflicted by your departure.—Look; the bird Chacraváca, called by his mate, who is almoſt hidden by water lilies, gives her no anſwer; but having dropped from his bill the fibres of lotos ſtalks which he had plucked, gazes on you with inexpreſſible tenderneſs.

Can. My ſon Sárngarava, remember, when thou ſhalt preſent Sacontalá to the king, to addreſs him thus, in my name: "Conſidering us "hermits as virtuous, indeed, but rich only in "devotion, and conſidering alſo thy own exalt-

" ed birth, retain thy love for this girl, which " aroſe in thy boſom without any interference of " her kindred; and look on her among thy " wives with the ſame kindneſs which they ex- " perience: more than that cannot be demand- " ed; ſince particular affection muſt depend on " the will of heaven."

Sárn. Your meſſage, venerable man, is deeply rooted in my remembrance.

Can. [*Looking tenderly at* Sacontalá.] Now, my darling, thou too muſt be gently admoniſhed.—We, who are humble foreſters, are yet acquainted with the world which we have forſaken.

Sárn. Nothing can be unknown to the wiſe.

Can. Hear, my daughter——When thou art ſettled in the manſion of thy huſband, ſhow due reverence to him, and to thoſe whom he reveres: though he have other wives, be rather an affectionate handmaid to them than a rival.—Should he diſpleaſe thee, let not thy reſentment lead thee to diſobedience.—In thy conduct to thy domeſticks be rigidly juſt and impartial; and ſeek not eagerly thy own gratifications.——By ſuch behaviour young women become reſpectable; but perverſe wives are the bane of a family.—— What thinks Gautamí of this leſſon?

Gaut. It is incomparable:——my child, be ſure to remember it.

Can. Come, my beloved girl, give a parting embrace to me and to thy tender companions.

Sac. Muſt Anuſúyá and Priyamvadá return to the hermitage?

Can. They too, my child, muſt be ſuitably married; and it would not be proper for them yet to viſit the city; but Gautamí will accompany thee.

Sac. [*Embracing him.*] Removed from the boſom of my father, like a young ſandal tree, rent from the hills of Malaya, how ſhall I exiſt in a ſtrange ſoil?

Can. Be not ſo anxious. When thou ſhalt be miſtreſs of a family, and conſort of a king, thou mayſt, indeed, be occaſionally perplexed by the intricate affairs which ariſe from exuberance of wealth, but wilt then think lightly of this tranſient affliction, eſpecially when thou ſhalt have a ſon (and a ſon thou wilt have) bright as the riſing day-ſtar.——Know alſo with certainty, that the body muſt neceſſarily, at the appointed moment, be ſeparated from the ſoul: who, then, can be immoderately afflicted, when the weaker bounds of extrinſick relations are looſened, or even broken.

Sac. [*Falling at his feet.*] My father, I thus humbly declare my veneration for you.

Can. Excellent girl, may my effort for thy happineſs prove ſucceſsful.

Sac. [*Approaching her two companions.*] Come, then, my beloved friends, embrace me together.

[*They embrace her.*

Anu. My friend, if the virtuous monarch ſhould not at once recollect you, only ſhow him the ring on which his own name is engraved.

Sac. [*Starting.*] My heart flutters at the bare apprehenſion which you have raiſed.

Pri. Fear not, ſweet Sacontalá: love always raiſes ideas of miſery, which are ſeldom or never realiſed.

Sárn. Holy ſage, the ſun has riſen to a conſiderable height: let the queen haſten her departure.

Sac. [*Again embracing* Canna.] When, my father, oh! when again ſhall I behold this aſylum of virtue?

Can. Daughter, when thou ſhalt long have been wedded, like this fruitful earth, to the pious monarch, and ſhalt have borne him a ſon, whoſe car ſhall be matchleſs in battle, thy lord ſhall transfer to him the burden of empire, and thou, with thy Duſhmanta, ſhalt again ſeek tranquillity, before thy final departure, in this loved and conſecrated grove.

Gaut. My child, the proper time for our journey paſſes away rapidly: ſuffer thy father to return.——Go, venerable man, go back to thy

manſion, from which ſhe is doomed to be ſo long abſent.

Can. Sweet child, this delay interrupts my religious duties.

Sac. You, my father, will perform them long without ſorrow; but I, alas! am deſtined to bear affliction.

Can. O! my daughter, compel me not to neglect my daily devotions.——[*Sighing.*]—No, my ſorrow will not be diminiſhed.—Can it ceaſe, my beloved, when the plants which riſe luxuriantly from the hallowed grains which thy hand has ſtrown before my cottage, are continually in my ſight? Go, may thy journey proſper.

[Sacontalá *goes out with* Gautamí *and the two Miſras.*

Both damſels. [*Looking after* Sacontalá *with anguiſh.*] Alas! alas! our beloved is hidden by the thick trees.

Can. My children, ſince your friend is at length departed, check your immoderate grief, and follow me. [*They all turn back.*

Both. Holy father, the grove will be a perfect vacuity without Sacontalá.

Can. Your affection will certainly give it that appearance.——[*He walks round meditating.*]—Ah me!—Yes; at laſt my weak mind has attained its due firmneſs after the departure of my Sacontalá.—In truth a daughter muſt ſooner or

later be the property of another; and, having now ſent her to her lord, I find my ſoul clear and undiſturbed, like that of a man who has reſtored to its owner an ineſtimable depoſit which he long had kept with ſolicitude.

[*They go out.*

ACT V.

SCENE—*The* PALACE.

An old Chamberlain, *ſighing.*

Chamberlain.

ALAS! what a decrepit old age have I attained!——This wand, which I firſt held for the diſcharge of my cuſtomary duties in the ſecret apartments of my prince, is now my ſupport, whilſt I walk feebly through the multitude of years which I have paſſed.——I muſt now mention to the king, as he goes through the palace, an event which concerns himſelf: it muſt not be delayed.—[*Advancing ſlowly.*]—What is it? —Oh! I recollect: the devout pupils of Canna deſire an audience.—How ſtrange a thing is human life!—The intellects of an old man ſeem at one time luminous, and then on a ſudden are involved in darkneſs, like the flame of a lamp at the point of extinction.—[*He walks round and looks.*]—There is Duſhmanta: he has been attending to his people, as to his own family; and now with a tranquil heart ſeeks a ſolitary chamber; as an elephant the chief of his herd, having

grazed the whole morning, and being heated by the meridian ſun, repairs to a cool ſtation during the oppreſſive heats.——Since the king is juſt riſen from his tribunal, and muſt be fatigued, I am almoſt afraid to inform him at preſent that Canna's pupils are arrived: yet how ſhould they who ſupport nations enjoy reſt?—The ſun yokes his bright ſteeds for the labour of many hours; the gale breathes by night and by day; the prince of ſerpents continually ſuſtains the weight of this earth; and equally inceſſant is the toil of that man, whoſe revenue ariſes from a ſixth part of his people's income. [*He walks about.*

Enter Duſhmanta, Mádhavya, *and Attendants.*

Duſhm. [*Looking oppreſſed with buſineſs.*] Every petitioner having attained juſtice, is departed happy; but kings who perform their duties conſcientiouſly are afflicted without end.—The anxiety of acquiring dominion gives extreme pain; and when it is firmly eſtabliſhed, the cares of ſupporting the nation inceſſantly haraſs the ſovereign; as a large umbrella, of which a man carries the ſtaff in his own hand, fatigues while it ſhades him.

Behind the ſcenes. May the king be victorious!

Two Bards *repeat ſtanzas.*

Firſt Bard. Thou ſeekeſt not thy own plea-

ſure: no; it is for the people that thou art haraſſed from day to day. Such, when thou waſt created, was the diſpoſition implanted in thy ſoul! Thus a branchy tree bears on his head the ſcorching ſunbeams, while his broad ſhade allays the fever of thoſe who ſeek ſhelter under him.

Second Bard. When thou wieldeſt the rod of juſtice, thou bringeſt to order all thoſe who have deviated from the path of virtue: thou biddeſt contention ceaſe: thou waſt formed for the preſervation of thy people: thy kindred poſſeſs, indeed, conſiderable wealth; but ſo boundleſs is thy affection, that all thy ſubjects are conſidered by thee as thy kinſmen.

Duſhm. [*Liſtening.*] That ſweet poetry refreſhes me after the toil of giving judgements and publick orders.

Mádh. Yes; as a tired bull is refreſhed when the people ſay, "There goes the lord of cattle."

Duſhm. [*Smiling.*] Oh! art thou here, my friend: let us take our ſeats together.

[*The king and* Mádhavya *ſit down.*—*Muſick behind the ſcenes.*

Mádh. Liſten, my royal friend. I hear a well-tuned Vínà ſounding, as if it were in concert with the lutes of the gods, from yonder apartment.—The queen Hanſamatì is preparing, I imagine, to greet you with a new ſong.

Dúshm. Be silent, that I may listen.

Cham. [*Aside.*] The king's mind seems intent on some other business. I must wait his leisure. [*Retiring on one side.*

SONG. [*Behind the scenes.*]

"Sweet bee, who, desirous of extracting fresh "honey, wast wont to kiss the soft border of the "new-blown Amra flower, how canst thou now "be satisfied with the water lily, and forget the "first object of thy love?"

Dushm. The ditty breathes a tender passion.

Mádh. Does the king know its meaning? It is too deep for me.

Dushm. [*Smiling.*] I was once in love with Hansamatì, and am now reproved for continuing so long absent from her.—Friend Mádhavya, inform the queen in my name that I feel the reproof.

Mádh. As the king commands; but—[*Rising slowly.*]—My friend, you are going to seize a sharp lance with another man's hand. I cannot relish your commission to an enraged woman.—A hermit cannot be happy till he has taken leave of all passions whatever.

Dushm. Go, my kind friend: the urbanity of thy discourse will appease her.

Mádh. What an errand! [*He goes out.*

Duſhm. [*Aſide.*] Ah! what makes me ſo melancholy on hearing a mere ſong on abſence, when I am not in fact ſeparated from any real object of my affection?—Perhaps the ſadneſs of men, otherwiſe happy, on ſeeing beautiful forms and liſtening to ſweet melody, ariſes from ſome faint remembrance of paſt joys and the traces of connections in a former ſtate of exiſtence.

[*He ſits penſive and ſorrowful.*

Cham. [*Advancing humbly.*] May our ſovereign be victorious!—Two religious men, with ſome women, are come from their abode in a foreſt near the Snowy Mountains, and bring a meſſage from Canna.—The king will command.

Duſhm. [*Surpriſed.*] What! are pious hermits arrived in the company of women?

Cham. It is even ſo.

Duſhm. Order the prieſt Sómaratá, in my name, to ſhew them due reverence in the form appointed by the Véda; and bid him attend me. I ſhall wait for my holy gueſts in a place fit for their reception.

Cham. I obey. [*He goes out.*

Duſhm. Wardour, point the way to the hearth of the conſecrated fire.

Ward. This, O king, this is the way.—[*He walks before.*]—Here is the entrance of the hallowed encloſure; and there ſtands the venerable cow to be milked for the ſacrifice, looking bright

from the recent ſprinkling of myſtick water.—Let the king aſcend.

[Duſhmanta *is raiſed to the place of ſacrifice on the ſhoulders of his Wardours.*

Duſhm. What meſſage can the pious Canna have ſent me?—Has the devotion of his pupils been impeded by evil ſpirits—or by what other calamity?—Or has any harm, alas! befallen the poor herds who graze in the hallowed foreſt?—Or have the ſins of the king tainted the flowers and fruits of the creepers planted by female hermits?—My mind is entangled in a labyrinth of confuſed apprehenſions.

Ward. What our ſovereign imagines, cannot poſſibly have happened; ſince the hermitage has been rendered ſecure from evil by the mere ſound of his bowſtring. The pious men, whom the king's benevolence has made happy, are come, I preſume, to do him homage.

Enter Sárngarava, Sáradwata *and* Gautamí, *leading* Sacontalá *by the hand; and before them the old* Chamberlain *and the* Prieſt.

Cham. This way, reſpectable ſtrangers; come this way.

Sárn. My friend Sáradwata, there ſits the king of men, who has felicity at command, yet ſhows equal reſpect to all: here no ſubject, even of the loweſt claſs, is received with contempt.

Nevertheleſs, my ſoul having ever been free from attachment to worldly things, I conſider this hearth, although a crowd now ſurround it, as the ſtation merely of conſecrated fire.

Sárad. I was not leſs confounded than yourſelf on entering the populous city; but now I look on it, as a man juſt bathed in pure water, on a man ſmeared with oil and duſt, as the pure on the impure, as the waking on the ſleeping, as the free man on the captive, as the independent on the ſlave.

Prieſt. Thence it is, that men, like you two, are ſo elevated above other mortals.

Sac. [*Perceiving a bad omen.*] Venerable mother, I feel my right eye throb! What means this involuntary motion?

Gaut. Heaven avert the omen, my ſweet child! May every delight attend thee!

[*They all advance.*

Prieſt. [*Shewing the king to them.*] There, holy men, is the protector of the people; who has taken his ſeat, and expects you.

Sárn. This is what we wiſhed; yet we have no private intereſt in the buſineſs. It is ever thus: trees are bent by the abundance of their fruit; clouds are brought low, when they teem with ſalubrious rain; and the real benefactors of mankind are not elated by riches.

Ward. O king, the holy gueſts appear before

you with placid looks, indicating their affection.

Duſhm. [*Gazing at* Sacontalá.] Ah! what damſel is that, whoſe mantle conceals the far greater part of her beautiful form?—She looks, among the hermits, like a freſh green bud among faded and yellow leaves.

Ward. This at leaſt, O king, is apparent; that ſhe has a form which deſerves to be ſeen more diſtinctly.

Duſhm. Let her ſtill be covered: ſhe ſeems pregnant; and the wife of another muſt not be ſeen even by me.

Sac. [*Aſide, with her hand to her boſom.*] O my heart, why doſt thou palpitate?—Remember the beginning of thy lord's affection, and be tranquil.

Prieſt. May the king proſper! The reſpectable gueſts have been honoured as the law ordains; and they have now a meſſage to deliver from their ſpiritual guide: let the king deign to hear it.

Duſhm. [*With reverence.*] I am attentive.

Both Miſras. [*Extending their hands.*] Victory attend thy banners!

Duſhm. I reſpectfully greet you both.

Both. Bleſſings on our ſovereign!

Duſhm. Has your devotion been uninterrupted?

Sárn. How ſhould our rites be diſturbed, when thou art the preſerver of all creatures? How, when the bright ſun blazes, ſhould darkneſs cover the world?

Duſhm. [*Aſide.*] The name of royalty produces, I ſuppoſe, all worldly advantages!—[*Aloud.*]—Does the holy Canna then proſper?

Sárn. O king, they who gather the fruits of devotion may command proſperity. He firſt inquires affectionately whether thy arms are ſucceſsful, and then addreſſes thee in theſe words:—

Duſhm. What are his orders?

Sárn. "The contract of marriage, reciprocally made between thee and this girl, my daughter, I confirm with tender regard; ſince thou art celebrated as the moſt honourable of men, and my Sacontalá is Virtue herſelf in a human form, no blaſphemous complaint will henceforth be made againſt Brahmá for ſuffering diſcordant matches: he has now united a bride and bridegroom with qualities equally tranſcendent.—Since, therefore, ſhe is pregnant by thee, receive her in thy palace, that ſhe may perform, in conjunction with thee, the duties preſcribed by religion."

Gaut. Great king, thou haſt a mild aſpect; and I wiſh to addreſs thee in few words.

Duſhm. [*Smiling.*] Speak, venerable matron.

Gaut. She waited not the return of her ſpiritual father; nor were thy kindred conſulted by thee. You two only were preſent, when your nuptials were ſolemnized: now, therefore, converſe freely together in the abſence of all others.

Sac. [*Aſide.*] What will my lord ſay?

Duſhm. [*Aſide, perplexed.*] How ſtrange an adventure!

Sac. [*Aſide.*] Ah me! how diſdainfully he ſeems to receive the meſſage!

Sárn. [*Aſide.*] What means that phraſe which I overheard, "How ſtrange an adventure?"—[*Aloud.*]—Monarch, thou knoweſt the hearts of men. Let a wife behave ever ſo diſcreetly, the world will think ill of her, if ſhe live only with her paternal kinſmen; and a lawful wife now requeſts, as her kindred alſo humbly entreat, that whether ſhe be loved or not, ſhe may paſs her days in the manſion of her huſband.

Duſhm. What ſayeſt thou?—Am I the lady's huſband?

Sac. [*Aſide with anguiſh.*] O my heart, thy fears have proved juſt.

Sárn. Does it become a magnificent prince to depart from the rules of religion and honour, merely becauſe he repents of his engagements?

Duſhm. With what hope of ſucceſs could this groundleſs fable have been invented?

Sárn. [*Angrily.*] The minds of thoſe whom power intoxicates are perpetually changing.

Duſhm. I am reproved with too great ſeverity.

Gaut. [*To* Sacontalá.] Be not aſhamed, my ſweet child: let me take off thy mantle, that the king may recollect thee. [*She unveils her.*

Duſhm. [*Aſide, looking at* Sacontalá.] While I am doubtful whether this unblemiſhed beauty which is diſplayed before me has not been poſſeſſed by another, I reſemble a bee fluttering at the cloſe of night over a bloſſom filled with dew; and in this ſtate of mind, I neither can enjoy nor forſake her.

Ward. [*Aſide to* Duſhmanta.] The king beſt knows his rights and his duties: but who would heſitate when a woman, bright as a gem, brings luſtre to the apartments of his palace?

Sárn. What, O king, does thy ſtrange ſilence import?

Duſhm. Holy man, I have been meditating again and again, but have no recollection of my marriage with this lady. How then can I lay aſide all conſideration of my military tribe, and admit into my palace a young woman who is pregnant by another huſband?

Sac. [*Aſide.*] Ah! wo is me.—Can there be

a doubt even of our nuptials?—The tree of my hope, which had riſen ſo luxuriantly, is at once broken down.

Sárn. Beware, leſt the godlike ſage, who would have beſtowed on thee, as a free gift, his ineſtimable treaſure, which thou hadſt taken, like a baſe robber, ſhould now ceaſe to think of thee, who art lawfully married to his daughter, and ſhould confine all his thoughts to her whom thy perfidy diſgraces.

Sárad. Reſt a while, my Sárngarava; and thou, Sacontalá, take thy turn to ſpeak; ſince thy lord has declared his forgetfulneſs.

Sac. [*Aſide.*] If his affection has ceaſed, of what uſe will it be to recall his remembrance of me?—Yet, if my ſoul muſt endure torment, be it ſo: I will ſpeak to him.——[*Aloud to* Duſhmanta.]—O my huſband!——[*Pauſing.*]—Or (if the juſt application of that ſacred word be ſtill doubted by thee) O ſon of Puru, is it becoming, that, having been once enamoured of me in the conſecrated foreſt, and having ſhown the exceſs of thy paſſion, thou ſhouldſt this day deny me with bitter expreſſions?

Duſhm. [*Covering his ears.*] Be the crime removed from my ſoul!—Thou haſt been inſtructed for ſome baſe purpoſe to vilify me, and make me fall from the dignity which I have hitherto ſupported; as a river which has burſt its banks

and altered its placid current, overthrows the trees that had riſen aloft on them.

Sac. If thou ſayſt this merely from want of recollection, I will reſtore thy memory by producing thy own ring, with thy name engraved on it!

Duſhm. A capital invention!

Sac. [*Looking at her finger.*] Ah me! I have no ring. [*She fixes her eyes with anguiſh on* Gautamí.

Gaut. The fatal ring muſt have dropped, my child, from thy hand, when thou tookeſt up water to pour on thy head in the pool of Sachítír-t'ha, near the ſtation of Sacrávatára.

Duſhm. [*Smiling.*] So ſkilful are women in finding ready excuſes!

Sac. The power of Bramá muſt prevail: I will yet mention one circumſtance.

Duſhm. I muſt ſubmit to hear the tale.

Sac. One day, in a grove of Vétaſas, thou tookeſt water in thy hand from its natural vaſe of lotos leaves——

Duſhm. What followed?

Sac. At that inſtant a little fawn, which I had reared as my own child, approached thee; and thou ſaidſt with benevolence: "Drink thou "firſt, gentle fawn." He would not drink from the hand of a ſtranger, but received water eagerly from mine; when thou ſaidſt, with increaſ-

ing affection: "Thus every creature loves its "companions; you are both foreſters alike, and "both alike amiable."

Duſhm. By ſuch intereſted and honied falſehoods are the ſouls of voluptuaries enſnared!

Gaut. Forbear, illuſtrious prince, to ſpeak harſhly. She was bred in a ſacred grove where ſhe learned no guile.

Duſhm. Pious matron, the dexterity of females, even when they are untaught, appears in thoſe of a ſpecies different from our own.—What would it be if they were duly inſtructed!—The female Cócilas, before they fly towards the firmament, leave their eggs to be hatched, and their young fed, by birds who have no relation to them.

Sac. [*With anger.*] Oh! void of honour, thou meaſureſt all the world by thy own bad heart. What prince ever reſembled, or ever will reſemble, thee, who weareſt the garb of religion and virtue, but in truth art a baſe deceiver; like a deep well whoſe mouth is covered with ſmiling plants!

Duſhm. [*Aſide.*] The ruſticity of her education makes her ſpeak thus angrily and inconſiſtently with female decorum.—She looks indignant; her eye glows; and her ſpeech, formed of harſh terms, faulters as ſhe utters them. Her lip, ruddy as the Bimba fruit, quivers as if it

were nipped with froſt; and her eyebrows, naturally ſmooth and equal, are at once irregularly contracted.—Thus having failed in circumventing me by the apparent luſtre of ſimplicity, ſhe has recourſe to wrath, and ſnaps in two the bow of Cáma, which, if ſhe had not belonged to another, might have wounded me.—[*Aloud.*]—The heart of Duſhmanta, young woman, is known to all; and thine is betrayed by thy preſent demeanor.

Sac. [*Ironically.*] You kings are in all caſes to be credited implicitly: you perfectly know the reſpect which is due to virtue and to mankind; while females, however modeſt, however virtuous, know nothing, and ſpeak nothing truly.—In a happy hour I came hither to ſeek the object of my affection: in a happy moment I received the hand of a prince deſcended from Puru; a prince who had won my confidence by the honey of his words, whilſt his heart concealed the weapon that was to pierce mine.

[*She hides her face and weeps.*

Sárn. This inſufferable mutability of the king's temper kindles my wrath. Henceforth let all be circumſpect before they form ſecret connections: a friendſhip haſtily contracted, when both hearts are not perfectly known, muſt ere long become enmity.

Duſhm. Wouldſt thou force me then to com-

mit an enormous crime, relying ſolely on her ſmooth ſpeeches?

Sárn. [*Scornfully.*] Thou haſt heard an anſwer.—The words of an incomparable girl, who never learned what iniquity was, are here to receive no credit; while they, whoſe learning conſiſts in accuſing others, and inquiring into crimes, are the only perſons who ſpeak truth!

Duſhm. O man of unimpeached veracity, I certainly am what thou deſcribeſt; but what would be gained by accuſing thy female aſſociate?

Sárn. Eternal miſery.

Duſhm. No; miſery will never be the portion of Puru's deſcendants.

Sárn. What avails our altercation?—O king, we have obeyed the commands of our preceptor, and now return. Sacontala is by law thy wife, whether thou defert or acknowledge her; and the dominion of a huſband is abſolute.—Go before us, Gautamí.

[*The two Miſras and* Gautamí *returning.*

Sac. I have been deceived by this perfidious man; but will you, my friends, will you alſo forſake me? [*Following them.*

Gaut. [*Looking back.*] My ſon, Sacontalá follows us with affectionate ſupplications. What can ſhe do here with a faithleſs huſband; ſhe who is all tenderneſs?

Sárn. [*Angrily to* Sacontalá.] O wife, who

ſeeſt the faults of thy lord, doſt thou deſire independence? [Sacontalá *ſtops, and trembles.*

Sárad. Let the queen hear. If thou beeſt what the king proclaims thee, what right haſt thou to complain? But if thou knoweſt the purity of thy own ſoul, it will become thee to wait as a handmaid in the manſion of thy lord. Stay, then, where thou art: we muſt return to Canna.

Duſhm. Deceive her not, holy men, with vain expectations. The moon opens the night flower; and the ſun makes the water lily bloſſom: each is confined to its own object: and thus a virtuous man abſtains from any connection with the wife of another.

Sárn. Yet thou, O king, who feareſt to offend religion and virtue, art not afraid to deſert thy wedded wife; pretending that the variety of thy publick affairs has made thee forget thy private contract.

Duſhm. [*To his Prieſt.*] I really have no remembrance of any ſuch engagement; and I aſk thee, my ſpiritual counſellor, whether of the two offences be the greater, to forſake my own wife, or to have an intercourſe with the wife of another?

Prieſt. [*After ſome deliberation.*] We may adopt an expedient between both.

Duſhm. Let my venerable guide command.

Prieſt. The young woman may dwell till her delivery in my houſe.

Duſhm. For what purpoſe?

Prieſt. Wiſe aſtrologers have aſſured the king, that he will be the father of an illuſtrious prince, whoſe dominion will be bounded by the weſtern and eaſtern ſeas: now, if the holy man's daughter ſhall bring forth a ſon whoſe hands and feet bear the marks of extenſive ſovereignty, I will do homage to her as my queen, and conduct her to the royal apartments; if not, ſhe ſhall return in due time to her father.

Duſhm. Be it as you judge proper.

Prieſt. [*To* Sacontalá.] This way, my daughter, follow me.

Sac. O earth! mild goddeſs, give me a place within thy boſom!

She goes out weeping with the Prieſt; while the two Miſras go out by a different way with Gautamí——Duſhmanta *ſtands meditating on the beauty of* Sacontalá; *but the imprecation ſtill clouds his memory.*]

Behind the ſcenes. Oh! miraculous event!

Duſhm. [*Liſtening.*] What can have happened!

The Prieſt *re-enters.*

Prieſt. Hear, O king, the ſtupendous event. When Canna's pupils had departed, Sacontalá, bewailing her adverſe fortune, extended her arms and wept; when——

Duſhm. What then?

Prieſt. A body of light, in a female ſhape, deſcended near Apſaraſtírt'ha, where the nymphs of heaven are worſhiped; and having caught her haſtily in her boſom, diſappeared.

[*All expreſs aſtoniſhment.*

Duſhm. I ſuſpected from the beginning ſome work of ſorcery.—The buſineſs is over; and it is needleſs to reaſon more on it.—Let thy mind, Sómaráta, be at reſt.

Prieſt. May the king be victorious.

[*He goes out.*

Duſhm. Chamberlain, I have been greatly haraſſed; and thou, Warder, go before me to a place of repoſe.

Ward. This way; let the king come this way.

Duſhm. [*Advancing, aſide.*] I cannot with all my efforts recollect my nuptials with the daughter of the hermit; yet ſo agitated is my heart, that it almoſt induces me to believe her ſtory.

[*All go out.*

ACT VI.

SCENE—*A* STREET.

Enter a Superintendent of Police with two Officers, leading a man with his hands bound.

First Officer. Striking the prisoner.

TAKE that, Cumbhílaca, if Cumbhílaca be thy name; and tell us now where thou gotteſt this ring, bright with a large gem, on which the king's name is engraved.

Cumbh. [*Trembling.*] Spare me, I entreat your honours to ſpare me: I am not guilty of ſo great a crime as you ſuſpect.

First Off. O diſtinguiſhed Bráhmen, didſt thou then receive it from the king as a reward of ſome important ſervice?

Cumbh. Only hear me: I am a poor fiſherman dwelling at Sacrávatára——

Second Off. Did we aſk, thou thief, about thy tribe or thy dwelling-place?

Sup. O Súchaca, let the fellow tell his own ſtory.——Now conceal nothing, ſirrah.

First Off. Doſt thou hear? Do as our maſter commands.

Cumbh. I am a man who ſupport my family by catching fiſh in nets, or with hooks, and by various other contrivances.

Sup. [*Laughing.*] A virtuous way of gaining a livelihood!

Cumbh. Blame me not, maſter. The occupation of our forefathers, how low ſoever, muſt not be forſaken; and a man who kills animals for ſale may have a tender heart though his act be cruel.

Sup. Go on, go on.

Cumbh. One day having caught a large Róhita fiſh, I cut it open, and ſaw this bright ring in its ſtomach; but when I offered to ſell it, I was apprehended by your honours. So far only am I guilty of taking the ring. Will you now continue beating and bruiſing me to death?

Sup. [*Smelling the ring.*] It is certain, Jáluca, that this gem has been in the body of a fiſh. The caſe requires conſideration; and I will mention it to ſome of the king's houſehold.

Both Off. Come on, cutpurſe.

[*They advance.*

Sup. Stand here, Súchaca, at the great gate of the city, and wait for me, while I ſpeak to ſome of the officers in the palace.

Both Off. Go, Rájayucta. May the king favour thee. [*The Superintendent goes out.*

Second Off. Our maſter will ſtay, I fear, a long while.

Firſt Off. Yes; acceſs to kings can only be had at their leiſure.

Second Off. The tips of my fingers itch, my friend Jáluca, to kill this cutpurſe.

Cumbh. You would put to death an innocent man.

Firſt Off. [*Looking.*] Here comes our maſter. —The king has decided quickly. Now, Cumbhílaca, you will either ſee your companions again, or be the food of ſhakàls and vultures.

The Superintendent re-enters.

Sup. Let the fiſherman immediately——

Cumbh. [*In an agony.*] Oh! I am a dead man.

Sup. ——be diſcharged.—Hola! ſet him at liberty. The king ſays he knows his innocence; and his ſtory is true.

Second Off. As our maſter commands.——The fellow is brought back from the manſion of Yama, to which he was haſtening.

[*Unbinding the fiſherman.*

Cumbh. [*Bowing.*] My lord, I owe my life to your kindneſs.

Sup. Riſe, friend; and hear with delight that the king gives thee a ſum of money equal to the

full value of the ring: it is a fortune to a man in thy ſtation. [*Giving him the money.*

Cumbh. [*With rapture.*] I am tranſported with joy.

Firſt Off. This vagabond ſeems to be taken down from the ſtake, and ſet on the back of a ſtate elephant.

Second Off. The king, I ſuppoſe, has a great affection for his gem.

Sup. Not for its intrinſick value; but I gueſſed the cauſe of his ecſtaſy when he ſaw it.

Both Off. What could occaſion it?

Sup. I ſuſpect that it called to his memory ſome perſon who has a place in his heart; for though his mind be naturally firm, yet, from the moment when he beheld the ring, he was for ſome minutes exceſſively agitated.

Second Off. Our maſter has given the king extreme pleaſure.

Firſt Off. Yes; and by the means of this fiſh-catcher. [*Looking fiercely at him.*

Cumbh. Be not angry—Half the money ſhall be divided between you to purchaſe wine.

Firſt Off. Oh! now thou art our beloved friend.—Good wine is the firſt object of our affection.—Let us go together to the vintners.

[*They all go out.*

SCENE—*The* GARDEN *of the* PALACE.

The Nymph Miſracéſí *appears in the air.*

Miſr. My firſt taſk was duly performed when I went to bathe in the Nymphs' pool; and I now muſt ſee with my own eyes how the virtuous king is afflicted.——Sacontalá is dear to this heart, becauſe ſhe is the daughter of my beloved Ménacà, from whom I received both commiſſions.—[*She looks round.*]—Ah! on a day full of delights the monarch's family ſeem oppreſſed with ſome new ſorrow.——By exerting my ſupernatural power I could know what has paſſed; but reſpect muſt be ſhown to the deſire of Ménacà. I will retire, therefore, among thoſe plants, and obſerve what is done without being viſible. [*She deſcends, and takes her ſtation.*

Enter two Damſels, attendants on the God of Love.

Firſt Damſ. [*Looking at an Amra flower.*]—The bloſſoms of yon Amra, waving on the green ſtalk, are freſh and light as the breath of this vernal month. I muſt preſent the goddeſs Retí with a baſket of them.

Second Damſ. Why, my Parabhriticá, doſt thou mean to preſent it alone?

Firſt Damſ. O my friend Madhucaricá, when

a female Cócilà, which my name implies, ſees a blooming Amra, ſhe becomes entranced, and loſes her recollection.

Second Damſ. [*With tranſport.*] What! is the ſeaſon of ſweets actually returned?

Firſt Damſ. Yes; the ſeaſon in which we muſt ſing of nothing but wine and love.

Second Damſ. Support me, then, while I climb up this tree, and ſtrip it of its fragrant gems, which we will carry as an offering to Cáma.

Firſt Damſ. If I aſſiſt, I muſt have a moiety of the reward which the god will beſtow.

Second Damſ. To be ſure, and without any previous bargain. We are only one ſoul, you know, though Brahmà has given it two bodies. ——[*She climbs up, and gathers the flowers.*]—Ah! the buds are hardly opened.——Here is one a little expanded, which diffuſes a charming odour——[*Taking a handful of buds.*]—This flower is ſacred to the god who bears a fiſh on his banner.—O ſweet bloſſom, which I now conſecrate, thou well deſerveſt to point the ſixth arrow of Cámadéva, who now takes his bow to pierce myriads of youthful hearts.

[*She throws down a bloſſom.*

The old Chamberlain *enters.*

Cham. [*Angrily.*] Deſiſt from breaking off thoſe half-opened buds: there will be no jubilee this year; our king has forbidden it.

Both Damſ. Oh! pardon us. We really knew not the prohibition.

Cham. You knew it not!—Even the trees which the ſpring was decking, and the birds who perch on them, ſympathize with our monarch. Thence it is, that yon buds, which have long appeared, ſhed not yet their prolifick duſt; and the flower of the Curuvaca, though perfectly formed, remains veiled in a cloſed chalice; while the voice of the Cócilà, though the cold dews fall no more, is fixed within his throat; and even Smara, the god of deſire, replaces the ſhaft half-drawn from his quiver.

Miſr. [*Aſide.*] The king, no doubt, is conſtant and tender-hearted.

Firſt Damſ. A few days ago, Mitravaſu, the governor of our province, diſpatched us to kiſs the feet of the king, and we come to decorate his groves and gardens with various emblems: thence it is, that we heard nothing of his interdict.

Cham. Beware then of reiterating your offence.

Second Damſ. To obey our lord will certainly be our delight; but if we are permitted to hear the ſtory, tell us, we pray, what has induced our ſovereign to forbid the uſual feſtivity.

Miſr. [*Aſide.*] Kings are generally fond of gay entertainments; and there muſt be ſome weighty reaſon for the prohibition.

Cham. [*Aſide.*] The affair is publick: why

ſhould I not ſatisfy them?——[*Aloud.*]—Has not the calamitous deſertion of Sacontalá reached your ears?

Firſt Damſ. We heard her tale from the governor, as far as the ſight of the fatal ring.

Cham. Then I have little to add.——When the king's memory was reſtored, by the ſight of his gem, he inſtantly exclaimed: "Yes, the incomparable Sacontalá is my lawful wife; and "when I rejected her, I had loſt my reaſon."—He ſhowed ſtrong marks of extreme affliction and penitence; and from that moment he has abhorred the pleaſures of life. No longer does he exert his reſpectable talents from day to day for the good of his people: he prolongs his nights without cloſing his eyes, perpetually rolling on the edge of his couch; and when he riſes, he pronounces not one ſentence aptly; miſtaking the names of the women in his apartments, and through diſtraction, calling each of them Sacontalá: then he ſits abaſhed, with his head long bent on his knees.

Miſr. [*Aſide.*] This is pleaſing to me, very pleaſing.

Cham. By reaſon of the deep ſorrow which now prevails in his heart, the vernal jubilee has been interdicted.

Both Damſ. The prohibition is highly proper.

Behind the ſcenes. Make way! The king is paſſing.

Cham. [*Liſtening.*] Here comes the monarch: depart therefore, damſels, to your own province.

[*The two Damſels go out.*

Duſhmanta *enters in penitential weeds, preceded by a Warder, and attended by* Mádhavya.

Cham. [*Looking at the king.*] Ah! how majeſtick are noble forms in every habiliment!—Our prince, even in the garb of affliction, is a venerable object.—Though he has abandoned pleaſure, ornaments, and buſineſs; though he is become ſo thin, that his golden bracelet falls looſened even down to his wriſt; though his lips are parched with the heat of his ſighs, and his eyes are fixed open by long ſorrow and want of ſleep, yet am I dazzled by the blaze of virtue which beams in his countenance like a diamond exquiſitely poliſhed.

Miſr. [*Aſide, gazing on* Duſhmanta.] With good reaſon is my beloved Sacontalá, though diſgraced and rejected, heavily oppreſſed with grief through the abſence of this youth.

Duſhm. [*Advancing ſlowly in deep meditation.*] When my darling with an antelope's eyes would have reminded me of our love, I was aſſuredly ſlumbering; but exceſs of miſery has awakened me.

Miſr. [*Aſide.*] The charming girl will at laſt be happy.

Mádh. [*Aſide.*] This monarch of ours is caught again in the gale of affection; and I hardly know a remedy for his illneſs.

Cham. [*Approaching* Duſhmanta.] May the king be victorious!—Let him ſurvey yon fine woodland, theſe cool walks, and this blooming garden; where he may repoſe with pleaſure on banks of delight.

Duſhm. [*Not attending to him.*] Warder, inform the chief miniſter in my name, that having reſolved on a long abſence from the city, I do not mean to ſit for ſome time in the tribunal; but let him write and diſpatch to me all the caſes that may ariſe among my ſubjects.

Ward. As the king commands.

[*He goes out.*

Duſhm. [*To the* Chamberlain.] And thou, Párvatáyana, neglect not thy ſtated buſineſs.

Cham. By no means. [*He goes out.*

Mádh. You have not left a fly in the garden.—Amuſe yourſelf now in this retreat, which ſeems pleaſed with the departure of the dewy ſeaſon.

Duſhm. O Mádhavya, when perſons accuſed of great offences prove wholly innocent, ſee how their accuſers are puniſhed!——A phrenſy obſtructed my remembrance of any former love

for the daughter of the ſage; and now the heart-born god, who delights in giving pain, has fixed in his bow-ſtring a new ſhaft pointed with the bloſſom of an Amra.——The fatal ring having reſtored my memory, ſee me deplore with tears of repentance the loſs of my beſt beloved, whom I rejected without cauſe; ſee me overwhelmed with ſorrow, even while the return of ſpring fills the hearts of all others with pleaſure.

Mádh. Be ſtill, my friend, whilſt I break Love's arrows with my ſtaff.

[*He ſtrikes off ſome flowers from an Amra tree.*

Duſhm. [*Meditating.*] Yes, I acknowledge the ſupreme power of Brahmà.——[*To* Mádhavya.] Where now, my friend, ſhall I ſit and recreate my ſight with the ſlender ſhrubs which bear a faint reſemblance to the ſhape of Sacontalá?

Mádh. You will ſoon ſee the damſel ſkilled in painting, whom you informed that you would ſpend the forenoon in yon bower of Mádhavì creepers; and ſhe will bring the queen's picture which you commanded her to draw.

Duſhm. My ſoul will be delighted even by her picture.——Show the way to the bower.

Mádh. This way, my friend.——[*They both advance,* Miſracésì *following them.*] The arbour of twining Mádhavìs, embelliſhed with fragments of ſtone like bright gems, appears by its

pleaſantneſs, though without a voice, to bid thee welcome.——Let us enter it, and be ſeated.

[*They both ſit down in the bower.*

Miſr. [*Aſide.*] From behind theſe branchy ſhrubs I ſhall behold the picture of my Sacontalá.——I will afterwards haſten to report the ſincere affection of her huſband.

[*She conceals herſelf.*

Duſhm. [*Sighing.*] O my approved friend, the whole adventure of the hermitage is now freſh in my memory.—I informed you how deeply I was affected by the firſt ſight of the damſel; but when ſhe was rejected by me you were not preſent.—Her name was often repeated by me (how, indeed, ſhould it not?) in our converſation.—What! haſt thou forgotten, as I had, the whole ſtory?

Miſr. [*Aſide.*] The ſovereigns of the world muſt not, I find, be left an inſtant without the objects of their love.

Mádh. Oh, no: I have not forgotten it; but at the end of our diſcourſe you aſſured me that your love tale was invented ſolely for your diverſion; and this, in the ſimplicity of my heart, I believed.—Some great event ſeems in all this affair to be predeſtined in heaven.

Miſr. [*Aſide.*] Nothing is more true.

Duſhm. [*Having meditated.*] O! my friend, ſuggeſt ſome relief for my torment.

Mádh. What new pain torments you? Virtuous men ſhould never be thus afflicted: the moſt violent wind ſhakes not mountains.

Duſhm. When I reflect on the ſituation of your friend Sacontalá, who muſt now be greatly affected by my deſertion of her, I am without comfort.—She made an attempt to follow the Bráhmens and the matron: Stay, ſaid the ſage's pupil, who was revered as the ſage himſelf: Stay, ſaid he, with a loud voice. Then once more ſhe fixed on me, who had betrayed her, that celeſtial face, then bedewed with guſhing tears; and the bare idea of her pain burns me like an envenomed javelin.

Miſr. [*Aſide.*] How he afflicts himſelf! I really ſympathize with him.

Mádh. Surely ſome inhabitant of the heavens muſt have wafted her to his manſion.

Duſhm. No; what male divinity would have taken the pains to carry off a wife ſo firmly attached to her lord? Ménacà, the nymph of Swerga, gave her birth; and ſome of her attendant nymphs have, I imagine, concealed her at the deſire of her mother.

Miſr. [*Aſide.*] To reject Sacontalá was, no doubt, the effect of a delirium, not the act of a waking man.

Mádh. If it be thus, you will ſoon meet her again.

Duſhm. Alas! why do you think ſo?

Mádh. Becauſe no father and mother can long endure to ſee their daughter deprived of her huſband.

Duſhm. Was it ſleep that impaired my memory? Was it deluſion? Was it an error of my judgement? Or was it the deſtined reward of my bad actions? Whatever it was, I am ſenſible that, until Sacontalá return to theſe arms, I ſhall be plunged in the abyſs of affliction.

Mádh. Do not deſpair: the fatal ring is itſelf an example that the loſt may be found.—Events which were foredoomed by Heaven muſt not be lamented.

Duſhm. [*Looking at his ring.*] The fate of this ring, now fallen from a ſtation which it will not eaſily regain, I may at leaſt deplore.—O gem, thou art removed from the ſoft finger, beautiful with ruddy tips, on which a place had been aſſigned thee; and, minute as thou art, thy bad qualities appear from the ſimilarity of thy puniſhment to mine.

Miſr. [*Aſide.*] Had it found a way to any other hand its lot would have been truly deplorable.——O Ménacà, how wouldſt thou be delighted with the converſation which gratifies my ears!

Mádh. Let me know, I pray, by what means the ring obtained a place on the finger of Sacontalá.

Duſhm. You ſhall know, my friend.—When I was coming from the holy foreſt to my capital, my beloved, with tears in her eyes, thus addreſſed me: "How long will the ſon of my "lord keep me in his remembrance?"

Mádh. Well; what then?

Duſhm. Then, fixing this ring on her lovely finger, I thus anſwered: "Repeat each day one "of the three ſyllables engraved on this gem; "and before thou haſt ſpelled the word Duſh-"manta, one of my nobleſt officers ſhall attend "thee, and conduct my darling to her palace." —Yet I forgot, I deſerted her in my phrenſy.

Miſr. [*Aſide.*] A charming interval of three days was fixed between their ſeparation and their meeting, which the will of Brahmà rendered unhappy.

Mádh. But how came the ring to enter, like a hook, into the mouth of a carp?

Duſhm. When my beloved was lifting water to her head in the pool of Sachitírt'ha, the ring muſt have dropped unſeen.

Mádh. It is very probable.

Miſr. [*Aſide.*] Oh! it was thence that the king, who fears nothing but injuſtice, doubted the reality of his marriage; but how, I wonder, could his memory be connected with a ring?

Duſhm. I am really angry with this gem.

Mádh. [*Laughing.*] So am I with this ſtaff.

Duſhm. Why ſo, Mádhavya?

Mádh. Becauſe it preſumes to be ſo ſtraight when I am ſo crooked.—Impertinent ſtick!

Duſhm. [*Not attending to him.*] How, O ring, couldſt thou leave that hand adorned with ſoft long fingers, and fall into a pool decked only with water lilies?—The anſwer is obvious: thou art irrational.—But how could , who was born with a reaſonable ſoul, deſert my only beloved?

Miſr. [*Aſide.*] He anticipates my remark.

Mádh. [*Aſide.*] So; I muſt wait here during his meditations, and periſh with hunger.

Duſhm. O my darling, whom I treated with diſreſpect, and forſook without reaſon, when will this traitor, whoſe heart is deeply ſtung with repentant ſorrow, be once more bleſſed with a ſight of thee?

A Damſel *enters with a picture.*

Damſ. Great king, the picture is finiſhed.

[*Holding it before him.*

Duſhm. [*Gazing on it.*] Yes; that is her face; thoſe are her beautiful eyes; thoſe her lips embelliſhed with ſmiles, and ſurpaſſing the red luſtre of the Carcandhu fruit: her mouth ſeems, though painted, to ſpeak, and her countenance darts beams of affection blended with a variety of melting tints.

Mádh. Truly, my friend, it is a picture ſweet

as love itſelf: my eye glides up and down to feaſt on every particle of it; and it gives me as much delight as if I were actually converſing with the living Sacontalá.

Miſr. [*Aſide.*] An exquiſite piece of painting!——My beloved friend ſeems to ſtand before my eyes.

Duſhm. Yet the picture is infinitely below the original; and my warm fancy, by ſupplying its imperfections, repreſents, in ſome degree, the lovelineſs of my darling.

Miſr. [*Aſide.*] His ideas are ſuitable to his exceſſive love and ſevere penitence.

Duſhm. [*Sighing.*] Alas! I rejected her when ſhe lately approached me, and now I do homage to her picture; like a traveller who negligently paſſes by a clear and full rivulet, and ſoon ardently thirſts for a falſe appearance of water on the ſandy deſert.

Mádh. There are ſo many female figures on this canvas, that I cannot well diſtinguiſh the lady Sacontalá.

Miſr. [*Aſide.*] The old man is ignorant of her tranſcendent beauty; her eyes, which faſcinated the ſoul of his prince, never ſparkled, I ſuppoſe, on Mádhavya.

Duſhm. Which of the figures do you conceive intended for the queen?

Mádh. [*Examining the picture.*] It is ſhe, I

imagine, who looks a little fatigued; with the ſtring of her veſt rather looſe; the ſlender ſtalks of her arms falling languidly; a few bright drops on her face, and ſome flowers dropping from her untied locks. That muſt be the queen; and the reſt, I ſuppoſe, are her damſels.

Duſhm. You judge well; but my affection requires ſomething more in the piece. Beſides, through ſome defect in the colouring, a tear ſeems trickling down her cheek, which ill ſuits the ſtate in which I deſired to ſee her painted. ——[*To the Damſel.*]—The picture, O Chaturicà, is unfiniſhed.——Go back to the painting room and bring the implements of thy art.

Damſ. Kind Mádhavya, hold the picture while I obey the king.

Duſhm. No; I will hold it.

[*He takes the picture; and the Damſel goes out.*

Mádh. What elſe is to be painted?

Miſr. [*Aſide.*] He deſires, I preſume, to add all thoſe circumſtances which became the ſituation of his beloved in the hermitage.

Duſhm. In this landſcape, my friend, I wiſh to ſee repreſented the river Málinì, with ſome amorous Flamingos on its green margin; farther back muſt appear ſome hills near the mountain Himálaya, ſurrounded with herds of Chamaras; and in the foreground, a dark ſpreading tree, with ſome mantles of woven bark ſuſpended on

its branches to be dried by the ſunbeams; while a pair of black antelopes couch in its ſhade, and the female gently rubs her beautiful forehead on the horn of the male.

Mádh. Add what you pleaſe; but, in my judgement, the vacant places ſhould be filled with old hermits, bent, like me, towards the ground.

Duſhm. [*Not attending to him.*] Oh! I had forgotten that my beloved herſelf muſt have ſome new ornaments.

Mádh. What, I pray?

Miſr. [*Aſide.*] Such, no doubt, as become a damſel bred in a foreſt.

Duſhm. The artiſt had omitted a Siríſha flower with its peduncle fixed behind her ſoft ear, and its filaments waving over part of her cheek; and between her breaſts muſt be placed a knot of delicate fibres, from the ſtalks of water lilies, like the rays of an autumnal moon.

Mádh. Why does the queen cover part of her face, as if ſhe was afraid of ſomething, with the tips of her fingers, that glow like the flowers of the Cuvalaya?—Oh! I now perceive an impudent bee, that thief of odours, who ſeems eager to ſip honey from the lotos of her mouth.

Duſhm. A bee! drive off the importunate inſect.

Mádh. The king has ſupreme power over all offenders.

Duſhm. O male bee, who approacheſt the lovely inhabitants of a flowery grove, why doſt thou expoſe thyſelf to the pain of being rejected?—See where thy female ſits on a bloſſom, and, though thirſty, waits for thy return: without thee ſhe will not taſte its nectar.

Miſr. [*Aſide.*] A wild, but apt, addreſs!

Mádh. The perfidy of male bees is proverbial.

Duſhm. [*Angrily.*] Shouldſt thou touch, O bee, the lip of my darling, ruddy as a freſh leaf on which no wind has yet breathed, a lip from which I drank ſweetneſs in the banquet of love, thou ſhalt, by my order, be impriſoned in the center of a lotos.——Doſt thou ſtill diſobey me?

Mádh. How can he fail to obey, ſince you denounce ſo ſevere a puniſhment? [*Aſide, laughing.*]—He is ſtark mad with love and affliction; whilſt I, by keeping him company, ſhall be as mad as he without either.

Duſhm. After my poſitive injunction, art thou ſtill unmoved?

Miſr. [*Aſide.*] How does exceſs of paſſion alter even the wiſe!

Mádh. Why, my friend, it is only a painted bee.

Miſr. [*Aſide.*] Oh! I perceive his miſtake: it ſhows the perfection of the art. But why does he continue muſing?

Duſhm. What ill-natured remark was that?—

Whilſt I am enjoying the rapture of beholding her to whom my ſoul is attached, thou, cruel remembrancer, telleſt me that it is only a picture. —[*Weeping.*]

Miſr. [*Aſide.*] Such are the woes of a ſeparated lover! He is on all ſides entangled in ſorrow.

Duſhm. Why do I thus indulge unremitted grief? That intercourſe with my darling which dreams would give, is prevented by my continued inability to repoſe; and my tears will not ſuffer me to view her diſtinctly even in this picture.

Miſr. [*Aſide.*] His miſery acquits him entirely of having deſerted her in his perfect ſenſes.

The Damſel *re-enters.*

Damſ. As I was advancing, O king, with my box of pencils and colours——

Duſhm. [*Haſtily.*] What happened?

Damſ. It was forcibly ſeized by the queen Vaſumatì, whom her maid Pingalicà had appriſed of my errand; and ſhe ſaid: "I will my-"ſelf deliver the caſket to the ſon of my lord."

Mádh. How came you to be releaſed?

Damſ. While the queen's maid was diſengaging the ſkirt of her mantle, which had been caught by the branch of a thorny ſhrub, I ſtole away.

Duſhm. Friend Mádhavya, my great attention to Vaſumatì has made her arrogant; and ſhe will ſoon be here: be it your care to conceal the picture.

Mádh. [*Aſide.*] I wiſh you would conceal it yourſelf.——[*He takes the picture, and riſes.*] ——[*Aloud.*]—If, indeed, you will diſentangle me from the net of your ſecret apartments, to which I am confined, and ſuffer me to dwell on the wall Méghach'handa which encircles them, I will hide the picture in a place where none ſhall ſee it but pigeons. [*He goes out.*

Miſr. [*Aſide.*] How honourably he keeps his former engagements, though his heart be now fixed on another object!

A Warder *enters with a leaf.*

Ward. May the king proſper!

Duſhm. Warder, haſt thou lately ſeen the queen Vaſumatì?

Ward. I met her, O king; but when ſhe perceived the leaf in my hand, ſhe retired.

Duſhm. The queen diſtinguiſhes time: ſhe would not impede my publick buſineſs.

Ward. The chief miniſter ſends this meſſage: "I have carefully ſtated a caſe which has ariſen "in the city, and accurately committed it to "writing: let the king deign to conſider it."

Duſhm. Give me the leaf.——[*Receiving it,*

and reading.]——"Be it preſented at the foot "of the king, that a merchant named Dhana- "vriddhi, who had extenſive commerce at ſea, "was loſt in a late ſhipwreck: he had no child "born; and has left a fortune of many millions, "which belong, if the king commands, to the "royal treaſury."——[*With ſorrow.*]—Oh! how great a misfortune it is to die childleſs! Yet with his affluence he muſt have had many wives:—let an inquiry be made whether any one of them is pregnant.

Ward. I have heard that his wife, the daughter of an excellent man, named Sácétaca, has already performed the ceremonies uſual on pregnancy.

Duſhm. The child, though unborn, has a title to his father's property.——Go: bid the miniſter make my judgement publick.

Ward. I obey. [*Going.*

Duſhm. Stay a while.——

Ward. [*Returning.*] I am here.

Duſhm. Whether he had or had not left offſpring, the eſtate ſhould not have been forfeited.——Let it be proclaimed, that whatever kinſman any one of my ſubjects may loſe, Duſhmanta (excepting always the caſe of forfeiture for crimes) will ſupply, in tender affection, the place of that kinſman.

Ward. The proclamation ſhall be made.——

[*He goes out.*

[Duſhmanta *continues meditating.*]

Re-enter Warder.

O king! the royal decree, which proves that your virtues are awake after a long ſlumber, was heard with burſts of applauſe.

Duſhm. [*Sighing deeply.*] When an illuſtrious man dies, alas, without an heir, his eſtate goes to a ſtranger; and ſuch will be the fate of all the wealth accumulated by the ſons of Puru.

Ward. Heaven avert the calamity!

[*Goes out.*

Duſhm. Wo is me! I am ſtripped of all the felicity which I once enjoyed.

Miſr. [*Aſide.*] How his heart dwells on the idea of his beloved!

Duſhm. My lawful wife, whom I baſely deſerted, remains fixed in my ſoul: ſhe would have been the glory of my family, and might have produced a ſon brilliant as the richeſt fruit of the teeming earth.

Miſr. [*Aſide.*] She is not forſaken by all; and ſoon, I truſt, will be thine.

Damſ. [*Aſide.*] What a change has the miniſter made in the king by ſending him that miſchievous leaf! Behold, he is deluged with tears.

Duſhm. Ah me! the departed ſouls of my anceſtors, who claim a ſhare in the funeral cake,

which I have no ſon to offer, are apprehenſive of loſing their due honour, when Duſhmanta ſhall be no more on earth:——who then, alas, will perform in our family thoſe obſequies which the Véda preſcribes?——My forefathers muſt drink, inſtead of a pure libation, this flood of tears, the only offering which a man who dies childleſs can make them. [*Weeping.*

Miſr. [*Aſide.*] Such a veil obſcures the king's eyes, that he thinks it total darkneſs, though a lamp be now ſhining brightly.

Damſ. Afflict not yourſelf immoderately: our lord is young; and when ſons illuſtrious as himſelf ſhall be born of other queens, his anceſtors will be redeemed from their offences committed here below.

Duſhm. [*With agony.*] The race of Puru, which has hitherto been fruitful and unblemiſhed, ends in me; as the river Sereſwatì diſappears in a region unworthy of her divine ſtream.

[*He faints.*

Damſ. Let the king reſume confidence.—

[*She ſupports him.*

Miſr. [*Aſide.*] Shall I reſtore him? No; he will ſpeedily be rouſed—I heard the nymph Dévajananì conſoling Sacontalá in theſe words: "As the gods delight in their portion of ſacri-" fices, thus wilt thou ſoon be delighted by the " love of thy huſband." I go, therefore, to

raiſe her ſpirits, and pleaſe my friend Ménacà with an account of his virtues and his affection

[*She riſes aloft and diſappears.*

Behind the ſcenes. A Bráhmen muſt not be ſlain: ſave the life of a Bráhmen.

Duſhm. [*Reviving and liſtening.*] Hah! was not that the plaintive voice of Mádhavya?

Damſ. He has probably been caught with the picture in his hand by Pingalicà and the other maids.

Duſhm. Go, Chaturicà, and reprove the queen in my name for not reſtraining her ſervants.

Damſ. As the king commands.

[*She goes out.*

Again behind the ſcenes. I am a Bráhmen, and muſt not be put to death.

Duſhm. It is manifeſtly ſome Bráhmen in great danger.——Hola! who is there?

The old Chamberlain *enters.*

Cham. What is the king's pleaſure?

Duſhm. Inquire why the faint-hearted Mádhavya cries out ſo piteouſly.

Cham. I will know in an inſtant.

[*He goes out, and returns trembling.*

Duſhm. Is there any alarm, Párvatáyana?

Cham. Alarm enough!

Duſhm. What cauſes thy tremour?—Thus do men tremble through age: fear ſhakes the old

man's body, as the breeze agitates the leaves of the Pippala.

Cham. Oh! deliver thy friend.

Duſhm. Deliver him! from what?

Cham. From diſtreſs and danger.

Duſhm. Speak more plainly.

Cham. The wall which looks to all quarters of the heavens, and is named, from the clouds which cover it, Méghach'handa——

Duſhm. What of that?

Cham. From the ſummit of that wall, the pinnacle of which is hardly attainable even by the blue-necked pigeons, an evil being, inviſible to human eyes, has violently carried away the friend of your childhood.

Duſhm. [*Starting up haſtily.*] What! are even my ſecret apartments infeſted by ſupernatural agents?—Royalty is ever ſubjected to moleſtation.—A king knows not even the miſchiefs which his own negligence daily and hourly occaſions:—how then ſhould he know what path his people are treading; and how ſhould he correct their manners when his own are uncorrected?

Behind the ſcenes. Oh, help! Oh, releaſe me.

Duſhm. [*Liſtening and advancing.*] Fear not, my friend, fear nothing——

Behind the ſcenes. Not fear, when a monſter has caught me by the nape of my neck, and

means to ſnap my backbone as he would ſnap a ſugar-cane!

Duſhm. [*Darting his eyes round.*] Hola! my bow——

A Warder *enters with the king's bow and quiver.*

Ward. Here are our great hero's arms.

[Duſhmanta *takes his bow and an arrow.*

Behind the ſcenes. Here I ſtand; and, thirſting for thy freſh blood, will ſlay thee ſtruggling as a tyger ſlays a calf.——Where now is thy protector, Duſhmanta, who graſps his bow to defend the oppreſſed?

Duſhm. [*Wrathfully.*] The demon names me with defiance.—Stay, thou baſeſt of monſters.—Here am I, and thou ſhalt not long exiſt.—[*Raiſing his bow.*]—Show the way, Párvatáyana, to the ſtairs of the terrace.

Cham. This way, great king!——

[*All go out haſtily.*

The SCENE *changes to a broad* TERRACE.

Enter Duſhmanta.

Duſhm. [*Looking round.*] Ah! the place is deſerted.

Behind the ſcenes. Save me, oh! ſave me.—I ſee thee, my friend, but thou canſt not diſcern

me, who, like a mouſe in the claws of a cat, have no hope of life.

Duſhm. But this arrow ſhall diſtinguiſh thee from thy foe, in ſpight of the magick which renders thee inviſible.——Mádhavya, ſtand firm; and thou, blood-thirſty fiend, think not of deſtroying him whom I love and will protect.—See, I thus fix a ſhaft which ſhall pierce thee, who deſerveſt death, and ſhall ſave a Bráhmen who deſerves long life; as the celeſtial bird ſips the milk, and leaves the water which has been mingled with it. [*He draws the bowſtring.*

Enter Mátali *and* Mádhavya.

Mát. The god Indra has deſtined evil demons to fall by thy ſhafts: againſt them let thy bow be drawn, and caſt on thy friends eyes bright with affection.

Duſhm. [*Aſtoniſhed, giving back his arms.*] Oh! Mátali, welcome; I greet the driver of Indra's car.

Mádh. What! this cutthroat was putting me to death, and thou greeteſt him with a kind welcome!

Mát. [*Smiling.*] O king, live long and conquer! Hear on what errand I am diſpatched by the ruler of the firmament.

Duſhm. I am humbly attentive.

Mát. There is a race of Dánavas, the children of Cálanémi, whom it is found hard to ſubdue—

Duſhm. This I have heard already from Nárad.

Mát. The god with an hundred ſacrifices, unable to quell that gigantick race, commiſſions thee, his approved friend, to aſſail them in the front of battle; as the ſun with ſeven ſteeds deſpairs of overcoming the dark legions of night, and gives way to the moon, who eaſily ſcatters them. Mount, therefore, with me, the car of Indra, and, graſping thy bow, advance to aſſured victory.

Duſhm. Such a mark of diſtinction from the prince of good genii honours me highly; but ſay why you treated ſo roughly my poor friend Mádhavya.

Mát. Perceiving that, for ſome reaſon or another, you were grievouſly afflicted, I was deſirous to rouſe your ſpirits by provoking you to wrath.—The fire blazes when wood is thrown on it; the ſerpent, when provoked, darts his head againſt the aſſailant; and a man capable of acquiring glory, exerts himſelf when his courage is excited.

Duſhm. [*To* Mádhavya.]—My friend, the command of Diveſpetir muſt inſtantly he obeyed: go, therefore, and carry the intelligence to

my chief minister; saying to him in my name: "Let thy wisdom secure my people from dan-" ger while this braced bow has a different em-" ployment."

Mádh. I obey; but wish it could have been employed without assistance from my terror.

[*He goes out.*

Mát. Ascend, great king.

[Dushmanta *ascends, and* Mátali *drives off the car.*

ACT VII.

Duſhmanta *with* Mátali *in the car of* Indra, *ſuppoſed to be above the clouds.*

Duſhmanta.

I AM ſenſible, O Mátali, that, for having executed the commiſſion which Indra gave me, I deſerved not ſuch a profuſion of honours.

Mát. Neither of you is ſatisfied. You who have conferred ſo great a benefit on the god of thunder, conſider it as a trifling act of devotion; whilſt he reckons not all his kindneſs equal to the benefit conferred.

Duſhm. There is no compariſon between the ſervice and the reward.—He ſurpaſſed my warmeſt expectation, when, before he diſmiſſed me, he made me ſit on half of his throne, thus exalting me before all the inhabitants of the Empyreum; and ſmiling to ſee his ſon Jayanta, who ſtood near him, ambitious of the ſame honour, perfumed my boſom with eſſence of heavenly ſandal wood, throwing over my neck a garland of flowers blown in paradiſe.

Mát. O king, you deſerve all imaginable re-

wards from the ſovereign of good genii; whoſe empyreal ſeats have twice been diſentangled from the thorns of Danu's race; formerly by the claws of the man-lion, and lately by thy unerring ſhafts.

Duſhm. My victory proceeded wholly from the auſpices of the god; as on earth, when ſervants proſper in great enterpriſes, they owe their ſucceſs to the magnificence of their lords. ——Could Arun diſpel the ſhades of night if the deity with a thouſand beams had not placed him before the car of day?

Mát. That caſe, indeed, is parallel.—[*Driving ſlowly.*]—See, O king, the full exaltation of thy glory, which now rides on the back of heaven! The delighted genii have been collecting, among the trees of life, thoſe crimſon and azure dyes, with which the celeſtial damſels tinge their beautiful feet; and they now are writing thy actions in verſes worthy of divine melody.

Duſhm. [*Modeſtly.*] In my tranſport, O Mátali, after the rout of the giants, this wonderful place had eſcaped my notice.—In what path of the winds are we now journeying?

Mát. This is the way which leads along the triple river, heaven's brighteſt ornament, and cauſes yon luminaries to roll in a circle with diffuſed beams: it is the courſe of a gentle breeze which ſupports the floating forms of the gods;

and this path was the ſecond ſtep of Viſhnu, when he confounded the proud Vali.

Duſhm. My internal ſoul, which acts by exterior organs, is filled by the ſight with a charming complacency.——[*Looking at the wheels.*]—We are now paſſing, I gueſs, through the region of clouds.

Mát. Whence do you form that conjecture?

Duſhm. The car itſelf inſtructs me that we are moving over clouds pregnant with ſhowers; for the circumference of its wheels diſperſes pellucid water; the horſes of Indra ſparkle with lightning; and I now ſee the warbling Chátacas deſcend from their neſts on the ſummits of mountains.

Mát. It is even ſo; and in another moment you will be in the country which you govern.

Duſhm. [*Looking down.*] Through the rapid, yet imperceptible, deſcent of the heavenly ſteeds, I now perceive the allotted ſtation of men.——Aſtoniſhing proſpect! It is yet ſo diſtant from us, that the low lands appear confounded with the high mountain tops; the trees erect their branchy ſhoulders, but ſeem leafleſs; the rivers look like bright lines, but their waters vaniſh; and, at this inſtant, the globe of earth ſeems thrown upwards by ſome ſtupendous power.

Mát. [*Looking with reverence on the earth.*]

How delightful is the abode of mankind!—O king, you ſaw diſtinctly.

Duſhm. Say, Mátali, what mountain is that which, like an evening cloud, pours exhilarating ſtreams, and forms a golden zone between the weſtern and eaſtern ſeas?

Mát. That, O king, is the mountain of Gandharvas, named Hémacúta: the univerſe contains not a more excellent place for the ſucceſsful devotion of the pious. There Caſyapa, father of the immortals, ruler of men, ſon of Maríchi, who ſprang from the ſelf-exiſtent, reſides with his conſort Aditi, bleſſed in holy retirement.

Duſhm. [*Devoutly.*] This occaſion of attaining good fortune muſt not be neglected: may I approach the divine pair, and do them complete homage?

Mát. By all means.—It is an excellent idea!—We are now deſcended on earth.

Duſhm. [*With wonder.*] Theſe chariot wheels yield no ſound; no duſt ariſes from them; and the deſcent of the car gave me no ſhock.

Mát. Such is the difference, O king, between thy car and that of Indra!

Duſhm. Where is the holy retreat of Márícchi?

Mát. [*Pointing.*] A little beyond that grove, where you ſee a pious Yógì, motionleſs as a pol-

lard, holding his thick bushy hair, and fixing his eyes on the solar orb.—Mark; his body is half covered with a white ant's edifice made of raised clay; the skin of a snake supplies the place of his sacerdotal thread, and part of it girds his loins; a number of knotty plants encircle and wound his neck; and surrounding birds' nests almost conceal his shoulders.

Dushm. I bow to a man of his austere devotion.

Mát. [*Checking the reins.*] Thus far, and enough.—We now enter the sanctuary of him who rules the world, and the groves which are watered by streams from celestial sources.

Dushm. This asylum is more delightful than paradise itself: I could fancy myself bathing in a pool of nectar.

Mát. [*Stopping the car.*] Let the king descend.

Dushm. [*Joyfully descending.*] How canst thou leave the car?

Mát. On such an occasion it will remain fixed: we may both leave it.—This way, victorious hero, this way.—Behold the retreat of the truly pious.

Dushm. I see with equal amazement both the pious and their awful retreat.—It becomes, indeed, pure spirits to feed on balmy air in a forest blooming with trees of life; to bathe in rills

dyed yellow with the golden duſt of the lotos, and to fortify their virtue in the myſterious bath; to meditate in caves, the pebbles of which are unblemiſhed gems; and to reſtrain their paſſions, even though nymphs of exquiſite beauty frolick around them: in this grove alone is attained the ſummit of true piety, to which other hermits in vain aſpire.

Mát. In exalted minds the deſire of perfect excellence continually increaſes.—[*Turning aſide.*]—Tell me, Vriddhaſácalya, in what buſineſs is the divine ſon of Maríchi now engaged?—What ſayeſt thou?—Is he converſing with the daughter of Dacſha, who practiſes all the virtues of a dutiful wife, and is conſulting him on moral queſtions?—Then we muſt await his leiſure.—[*To* Duſhmanta.] Reſt, O king, under the ſhade of this Aſóca tree, whilſt I announce thy arrival to the father of Indra.

Duſhm. As you judge right.——[Mátali *goes out.*—Duſhmanta *feels his right arm throb.*] Why, O my arm, doſt thou flatter me with a vain omen?—My former happineſs is loſt, and miſery only remains.

Behind the ſcenes. Be not ſo reſtleſs: in every ſituation thou ſhoweſt thy bad temper.

Duſhm. [*Liſtening.*] Hah! this is no place, ſurely, for a malignant diſpoſition.——Who can be thus rebuked?—[*Looking with ſurpriſe.*]—I

ſee a child, but with no childiſh countenance or ſtrength, whom two female anchorites are endeavouring to keep in order; while he forcibly pulls towards him, in rough play, a lion's whelp with a torn mane, who ſeems juſt dragged from the half-ſucked nipple of the lioneſs!

A little Boy *and two female* Attendants *are diſcovered, as deſcribed by the king.*

Boy. Open thy mouth, lion's whelp, that I may count thy teeth.

Firſt Atten. Intractable child! Why doſt thou torment the wild animals of this foreſt, whom we cheriſh as if they were our own offspring? ——Thou ſeemeſt even to ſport in anger.—Aptly have the hermits named thee Servademana, ſince thou tameſt all creatures.

Duſhm. Ah! what means it that my heart inclines to this boy as if he were my own ſon? —[*Meditating.*]—Alas! I have no ſon; and the reflection makes me once more ſoft-hearted.

Second Atten. The lioneſs will tear thee to pieces if thou releaſe not her whelp.

Boy. [*Smiling.*] Oh! I am greatly afraid of her to be ſure!

[*He bites his lip, as in defiance of her.*

Duſhm. [*Aſide, amazed.*] The child exhibits the rudiments of heroick valour, and looks like fire which blazes from the addition of dry fuel.

Firſt Atten. My beloved child, ſet at liberty this young prince of wild beaſts; and I will give thee a prettier plaything.

Boy. Give it firſt.—Where is it?

[*Stretching out his hand.*

Duſhm. [*Aſide, gazing on the child's palm.*] What! the very palm of his hand bears the marks of empire; and whilſt he thus eagerly extends it, ſhows its lines of exquiſite network, and glows like a lotos expanded at early dawn, when the ruddy ſplendour of its petals hides all other tints in obſcurity.

Second Atten. Mere words, my Suvritâ, will not pacify him.—Go, I pray, to my cottage, where thou wilt find a plaything made for the hermit's child, Sancara: it is a peacock of earthenware painted with rich colours.

Firſt Atten. I will bring it ſpeedily.

[*She goes out.*

Boy. In the mean time I will play with the young lion.

Second Atten. [*Looking at him with a ſmile.*] Let him go, I entreat thee.

Duſhm. [*Aſide.*] I feel the tendereſt affection for this unmanageable child. [*Sighing.*]—How ſweet muſt be the delight of virtuous fathers, when they ſoil their boſoms with duſt by lifting up their playful children, who charm them with inarticulate prattle, and ſhow the white bloſſoms

of their teeth, while they laugh innocently at every trifling occurrence!

Second Atten. [*Raiſing her finger.*] What! doſt thou ſhow no attention to me?—[*Looking round.*]—Are any of the hermits near?—[*Seeing* Duſhmanta.]—Oh! let me requeſt you, gentle ſtranger, to releaſe the lion's whelp, who cannot diſengage himſelf from the graſp of this robuſt child.

Duſhm. I will endeavour.—[*Approaching the* Boy *and ſmiling.*]—O thou, who art the ſon of a pious anchorite, how canſt thou diſhonour thy father, whom thy virtues would make happy, by violating the rules of this conſecrated foreſt? It becomes a black ſerpent only, to infeſt the boughs of a fragrant ſandal tree.

[*The* Boy *releaſes the lion.*

Second Atten. I thank you, courteous gueſt; —but he is not the ſon of an anchorite.

Duſhm. His actions, indeed, which are conformable to his robuſtneſs, indicate a different birth: but my opinion aroſe from the ſanctity of the place which he inhabits.—[*Taking the* Boy *by the hand.*]—[*Aſide.*]—Oh! ſince it gives me ſuch delight merely to touch the hand of this child, who is the hopeful ſcion of a family unconnected with mine, what rapture muſt be felt by the fortunate man from whom he ſprang?

Second Atten. [*Gazing on them alternately.*] Oh wonderful!

Duſhm. What has raiſed your wonder?

Second Atten. The aſtoniſhing reſemblance between the child and you, gentle ſtranger, to whom he bears no relation.—It ſurpriſed me alſo to ſee, that although he has childiſh humours, and had no former acquaintance with you, yet your words have reſtored him to his natural good temper.

Duſhm. [*Raiſing the* Boy *to his boſom.*] Holy matron, if he be not the ſon of a hermit, what then is the name of his family?

Second Atten. He is deſcended from Puru.

Duſhm. [*Aſide.*] Hah! thence, no doubt, ſprings his diſpoſition, and my affection for him. —[*Setting him down.*]—[*Aloud.*] It is, I know, an eſtabliſhed uſage among the princes of Puru's race, to dwell at firſt in rich palaces with ſtuccoed walls, where they protect and cheriſh the world, but in the decline of life to ſeek humbler manſions near the roots of venerable trees, where hermits with ſubdued paſſions practiſe auſtere devotion.—I wonder, however, that this boy, who moves like a god, could have been born of a mere mortal.

Second Atten. Affable ſtranger, your wonder will ceaſe when you know that his mother is related to a celeſtial nymph, and brought him forth in the ſacred foreſt of Caſyapa.

Duſhm. [*Aſide.*] I am tranſported.—This is a freſh ground of hope.—[*Aloud.*]—What virtu-

ous monarch took his excellent mother by the hand?

Second Atten. Oh! I muſt not give celebrity to the name of a king who deſerted his lawful wife.

Duſhm. [*Aſide.*] Ah! ſhe means me.—Let me now aſk the name of the ſweet child's mother.—[*Meditating.*]—But it is againſt good manners to inquire concerning the wife of another man.

The Firſt Attendant *re-enters with a toy.*

Firſt Atten. Look, Servademana, look at the beauty of this bird, Saconta lávanyam.

Boy. [*Looking eagerly round.*] Sacontalá! Oh, where is my beloved mother?

[*Both* Attendants *laugh.*

Firſt Atten. He tenderly loves his mother, and was deceived by an equivocal phraſe.

Second Atten. My child, ſhe meant only the beautiful ſhape and colours of this peacock.

Duſhm. [*Aſide.*] Is my Sacontalá then his mother? Or has that dear name been given to ſome other woman?—This converſation reſembles the fallacious appearance of water in a deſert, which ends in bitter diſappointment to the ſtag parched with thirſt.

Boy. I ſhall like the peacock if it can run and fly; not elſe. [*He takes it.*

Firſt Atten. [*Looking round in confuſion.*] Alas, the child's amulet is not on his wriſt!

Duſhm. Be not alarmed. It was dropped while he was playing with the lion: I ſee it, and will put it into your hand.

Both. Oh! beware of touching it.

Firſt Atten. Ah! he has actually taken it up.

[*They both gaze with ſurpriſe on each other.*

Duſhm. Here it is; but why would you have reſtrained me from touching this bright gem?

Second Atten. Great monarch, this divine amulet has a wonderful power, and was given to the child by the ſon of Maríchi, as ſoon as the ſacred rites had been performed after his birth: whenever it fell on the ground, no human being but the father or mother of this boy could have touched it unhurt.

Duſhm. What if a ſtranger had taken it?

Firſt Atten. It would have become a ſerpent and wounded him.

Duſhm. Have you ſeen that conſequence on any ſimilar occaſion?

Both. Frequently.

Duſhm. [*With tranſport.*] I may then exult on the completion of my ardent deſire.

[*He embraces the child.*

Second Atten. Come, Suvritá, let us carry the delightful intelligence to Sacontalá, whom the

harſh duties of a ſeparated wife have ſo long oppreſſed. [*The* Attendants *go out.*

Boy. Farewell; I muſt go to my mother.

Duſhm. My darling ſon, thou wilt make her happy by going to her with me.

Boy. Duſhmanta is my father; and you are not Duſhmanta.

Duſhm. Even thy denial of me gives me delight.

Sacontalá *enters in mourning apparel, with her long hair twiſted in a ſingle braid, and flowing down her back.*

Sac. [*Aſide.*] Having heard that my child's amulet has proved its divine power, I muſt either be ſtrangely diffident of my good fortune, or that event which Miſracéſì predicted has actually happened. [*Advancing.*

Duſhm. [*With a mixture of joy and ſorrow.*] Ah! do I ſee the incomparable Sacontalá clad in ſordid weeds?——Her face is emaciated by the performance of auſtere duties; one twiſted lock floats over her ſhoulder; and with a mind perfectly pure, ſhe ſupports the long abſence of her huſband, whoſe unkindneſs exceeded all bounds.

Sac. [*Seeing him, yet doubting.*] Is that the ſon of my lord grown pale with penitence and affliction? —If not, who is it, that ſullies with his touch

the hand of my child, whoſe amulet ſhould have preſerved him from ſuch indignity?

Boy. [*Going haſtily to* Sacontalá.] Mother, here is a ſtranger who calls me ſon.

Duſhm. Oh! my beſt beloved, I have treated thee cruelly; but my cruelty is ſucceeded by the warmeſt affection; and I implore your remembrance and forgiveneſs.

Sac. [*Aſide.*] Be confident, O my heart!—[*Aloud.*]—I ſhall be moſt happy when the king's anger has paſſed away.—[*Aſide.*]—This muſt be the ſon of my lord.

Duſhm. By the kindneſs of heaven, O loveliеſt of thy ſex, thou ſtandeſt again before me, whoſe memory was obſcured by the gloom of faſcination; as the ſtar Róhinì at the end of an eclipſe rejoins her beloved moon.

Sac. May the king be—

[*She burſts into tears.*

Duſhm. My darling, though the word victorious be ſuppreſſed by thy weeping, yet I muſt have victory, ſince I ſee thee again, though with pale lips and a body unadorned.

Boy. What man is this, mother?

Sac. Sweet child, aſk the divinity, who preſides over the fortunes of us both. [*She weeps.*

Duſhm. O my only beloved, baniſh from thy mind my cruel deſertion of thee.—A violent phrenſy overpowered my ſoul.—Such, when the

darkneſs of illuſion prevails, are the actions of the beſt intentioned; as a blind man, when a friend binds his head with a wreath of flowers, miſtakes it for a twining ſnake, and fooliſhly rejects it. [*He falls at her feet.*

Sac. Riſe, my huſband, oh! riſe—My happineſs has been long interrupted; but joy now ſucceeds to affliction, ſince the ſon of my lord ſtill loves me.—[*He riſes.*]—How was the remembrance of this unfortunate woman reſtored to the mind of my lord's ſon?

Duſhm. When the dart of miſery ſhall be wholly extracted from my boſom, I will tell you all; but ſince the anguiſh of my ſoul has in part ceaſed, let me firſt wipe off that tear which trickles from thy delicate eye-laſh; and thus efface the memory of all the tears which my delirium has made thee ſhed.

[*He ſtretches out his hand.*

Sac. [*Wiping off her tears, and ſeeing the ring on his finger.*] Ah! is that the fatal ring?

Duſhm. Yes; by the ſurpriſing recovery of it my memory was reſtored.

Sac. Its influence, indeed, has been great; ſince it has brought back the loſt confidence of my huſband.

Duſhm. Take it then, as a beautiful plant receives a flower from the returning ſeaſon of joy.

Sac. I cannot again truſt it.—Let it be worn by the ſon of my lord.

Mátali *enters.*

Mát. By the will of heaven the king has happily met his beloved wife, and ſeen the countenance of his little ſon.

Duſhm. It was by the company of my friend that my deſire attained maturity.—But ſay, was not this fortunate event previouſly known to Indra?

Mát. [*Smiling.*] What is unknown to the gods?—But come: the divine Maricha deſires to ſee thee.

Duſhm. Beloved, take our ſon by the hand; and let me preſent you both to the father of immortals.

Sac. I really am aſhamed, even in thy preſence, to approach the deities.

Duſhm. It is highly proper on ſo happy an occaſion.—Come, I entreat thee.

[*They all advance.*

The ſcene is withdrawn, and Caſyapa *is diſcovered on a throne converſing with* Aditi.

Caſ. [*Pointing to the king.*] That, O daughter of Dacſha, is the hero who led the ſquadrons of thy ſon to the front of battle, a ſovereign of the earth, Duſhmanta; by the means of whoſe bow

the thunder-bolt of Indra (all its work being accompliſhed) is now a mere ornament of his heavenly palace.

Adi. He bears in his form all the marks of exalted majeſty.

Mát. [*To* Duſhmanta.] The parents of the twelve Adityas, O king, are gazing on thee, as on their own offspring, with eyes of affection.—Approach them, illuſtrious prince.

Duſhm. Are thoſe, O Mátali, the divine pair, ſprung from Maríchi and Dacſha?—Are thoſe the grand-children of Brahmá, to whom the ſelf-exiſtent gave birth in the beginning; whom inſpired mortals pronounce the fountain of glory apparent in the form of twelve ſuns; they who produced my benefactor, the lord of a hundred ſacrifices, and ruler of three worlds?

Mát. Even they—[*Proſtrating himſelf with* Duſhmanta.]—Great beings, the king Duſhmanta, who has executed the commands of your ſon Vaſava, falls humbly before your throne.

Caſ. Continue long to rule the world.

Adi. Long be a warriour with a car unſhattered in combat.

[Sacontalá *and her ſon proſtrate themſelves.*

Caſ. Daughter, may thy huſband be like Indra! May thy ſon reſemble Jayanta! And mayſt thou (whom no benediction could better ſuit)

be equal in proſperity to the daughter of Pulóman!

Adi. Preſerve, my child, a conſtant unity with thy lord: and may this boy, for a great length of years, be the ornament and joy of you both! Now be ſeated near us. [*They all ſit down.*

Caſ. [*Looking at them by turns.*] Sacontalá is the model of excellent wives; her ſon is dutiful; and thou, O king, haſt three rare advantages, true piety, abundant wealth, and active virtue.

Duſhm. O divine being, having obtained the former object of my moſt ardent wiſhes, I now have reached the ſummit of earthly happineſs through thy favour, and thy benizon will enſure its permanence.—Firſt appears the flower, then the fruit; firſt clouds are collected, then the ſhower falls: ſuch is the regular courſe of cauſes and effects; and thus, when thy indulgence preceded, felicity generally followed.

Mát. Great indeed, O king, has been the kindneſs of the primeval Bráhmens.

Duſhm. Bright ſon of Maríchi, this thy handmaid was married to me by the ceremony of Gandharvas, and, after a time, was conducted to my palace by ſome of her family; but my memory having failed through delirium, I rejected her, and thus committed a grievous offence

againſt the venerable Canna, who is of thy divine lineage: afterwards, on ſeeing this fatal ring, I remembered my love and my nuptials; but the whole tranſaction yet fills me with wonder. My ſoul was confounded with ſtrange ignorance that obſcured my ſenſes; as if a man were to ſee an elephant marching before him, yet to doubt what animal it could be, till he diſcovered by the traces of his large feet that it was an elephant.

Caſ. Ceaſe, my ſon, to charge thyſelf with an offence committed ignorantly, and, therefore, innocently.—Now hear me—

Duſhm. I am devoutly attentive.

Caſ. When the nymph Ménacà led Sacontalá from the place where thy deſertion of her had afflicted her ſoul, ſhe brought her to the palace of Aditi; and I knew, by the power of meditation on the Supreme Being, that thy forgetfulneſs of thy pious and lawful conſort had proceeded from the imprecation of Durváſas, and that the charm would terminate on the ſight of thy ring.

Duſhm. [*Aſide.*] My name then is cleared from infamy.

Sac. Happy am I that the ſon of my lord, who now recogniſes me, denied me through ignorance, and not with real averſion.——The terrible imprecation was heard, I ſuppoſe, when

my mind was intent on a different object, by my two beloved friends, who, with extreme affection, concealed it from me to ſpare my feelings, but adviſed me at parting to ſhow the ring if my huſband ſhould have forgotten me.

Caſ. [*Turning to* Sacontalá.] Thou art appriſed, my daughter, of the whole truth, and muſt no longer reſent the behaviour of thy lord. ——He rejected thee when his memory was impaired by the force of a charm; and when the gloom was diſpelled, his conjugal affection revived; as a mirror whoſe ſurface has been ſullied, reflects no image; but exhibits perfect reſemblances when its poliſh has been reſtored.

Duſhm. Such, indeed, was my ſituation.

Caſ. My ſon Duſhmanta, haſt thou embraced thy child by Sacontalá, on whoſe birth I myſelf performed the ceremonies preſcribed in the Véda?

Duſhm. Holy Maríchi, he is the glory of my houſe.

Caſ. Know too, that his heroick virtue will raiſe him to a dominion extended from ſea to ſea: before he has paſſed the ocean of mortal life, he ſhall rule, unequalled in combat, this earth with ſeven peninſulas; and, as he now is called Servademana, becauſe he tames even in childhood the fierceſt animals, ſo, in his riper

years, he ſhall acquire the name of Bhereta, becauſe he ſhall ſuſtain and nouriſh the world.

Duſhm. A boy educated by the ſon of Maríchi, muſt attain the ſummit of greatneſs.

Adi. Now let Sacontalá, who is reſtored to happineſs, convey intelligence to Canna of all theſe events: her mother Ménacà is in my family, and knows all that has paſſed.

Sac. The goddeſs propoſes what I moſt ardently wiſh.

Caſ. By the force of true piety the whole ſcene will be preſent to the mind of Canna.

Duſhm. The devout ſage muſt be ſtill exceſſively indignant at my frantick behaviour.

Caſ. [*Meditating.*] Then let him hear from me the delightful news, that his foſter-child has been tenderly received by her huſband, and that both are happy with the little warriour who ſprang from them.—Hola! who is in waiting?

A Pupil *enters.*

Pup. Great being, I am here.

Caſ. Haſten, Gólava, through the light air, and in my name inform the venerable Canna, that Sacontalá has a charming ſon by Duſhmanta, whoſe affection for her was reſtored with his remembrance, on the termination of the ſpell raiſed by the angry Durváſas.

Pup. As the divinity commands.

[*He goes out.*

Caſ. My ſon, reaſcend the car of Indra with thy conſort and child, and return happy to thy imperial ſeat.

Duſhm. Be it as Maríchi ordains.

Caſ. Henceforth may the god of the atmoſphere with copious rain give abundance to thy affectionate ſubjects; and mayſt thou with frequent ſacrifices maintain the Thunderer's friendſhip! By numberleſs interchanges of good offices between you both, may benefits reciprocally be conferred on the inhabitants of the two worlds!

Duſhm. Powerful being, I will be ſtudious, as far as I am able, to attain that felicity.

Caſ. What other favours can I beſtow on thee?

Duſhm. Can any favours exceed thoſe already beſtowed?——Let every king apply himſelf to the attainment of happineſs for his people; let Sereſwatì, the goddeſs of liberal arts, be adored by all readers of the Véda; and may Siva, with an azure neck and red locks, eternally potent and ſelf-exiſting, avert from me the pain of another birth in this periſhable world, the ſeat of crimes and of puniſhment. [*All go out.*

END OF THE SEVENTH VOLUME.

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